

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification)	Docket No.
for Mirant Corporation's)	00-AFC-4
Potrero Power Plant)	
Unit 7 Project)	
_____)	

VOLUME I

505 VAN NESS
SAN FRANCISCO, CALIFORNIA

MONDAY, JUNE 24, 2002

10:03 a.m.

Reported by:
Peter Petty
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Pernell, Commissioner, Presiding Member

William Keese, Commissioner, Associate Member

HEARING OFFICER AND PUBLIC ADVISER PRESENT

Stanley W. Valkosky, Hearing Officer

Roberta Mendonca, Public Adviser

STAFF AND CONSULTANTS PRESENT

William W. Westerfield, III, Staff Counsel

Kevin Kennedy, Siting Program Manager

Marc Pryor, Project Manager

James Fore, Siting Division

APPLICANT

Michael J. Carroll, Attorney
Latham & Watkins

Valerie Zambito, Director of Technical Support
Mark Stone, General Manager of Construction
Mirant Corporation

Dale Shileikis
Kelly Haggerty
URS Corporation

Juanito Jamias, Civil Engineer
Moffatt and Nichol

Paul Menaker, Senior Vice President
Korve Engineering

Marcus Young
Teddy Gray
Singer and Associates

INTERVENORS

Jacqueline Minor, Deputy City Attorney
City and County of San Francisco

William B. Rostov, Staff Attorney
Communities for a Better Environment

Marcie Keever, Environmental Law & Justice Clinic
Golden Gate University School of Law
Southeast Alliance for Environmental Justice/
Our Children's Earth Foundation

ALSO PRESENT

Mike Thomas, Communities for a Better Environment
and resident of Potrero Hill

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P R O C E E D I N G S

10:03 a.m.

COMMISSIONER PERNELL: Good morning. My name is Commissioner Robert Pernell. I'm the presiding member. Commissioner Keese, who is the chairman of the Commission, is the associate member and he indicated that he would be a little late today.

Before we begin our introductions, I'd like to do a little background. This is the first set of evidentiary hearings for the proposed Potrero Unit Seven Project. The Committee noticed the hearing for today and tomorrow in a notice and order issued May 17th, 2002. That document also contained filing dates for testimony.

In addition to the February '02 assessment and the AFC document and its associates supplements, other filings pertinent to this set of hearings included Applicant's prepared testimony and exhibits for the June 24th and 25th, '02 hearings filed May 29th, Exhibits 2A, 2B, 2C, and 17; Staff's supplemental transmission system engineering testimony filed June 13th. Those were Exhibits 21A and B. And also Cal ISO testimony, Exhibit 19. City and County of San Francisco

1 prepared testimony and exhibits on traffic and
2 transportation. They are Exhibits 16 and
3 transmission systems engineering Exhibits 20A and
4 20B, filed June 12th, 2002.

5 In the way of introductions, again, my
6 name is Commissioner Pernell. I am the presiding
7 member of the Committee. Joining me here on the
8 dais is our hearing officer, Mr. Valkosky.

9 Will Applicants please introduce
10 themselves and their team.

11 MR. CARROLL: Good morning. Mike
12 Carroll with Latham and Watkins on behalf of
13 Mirant. We have a number of our team members
14 here. Would you like me to introduce them now, or
15 as they are called as witnesses?

16 PRESIDING COMMISSIONER PERNELL: Well,
17 you can do it now, and then when they're called as
18 witnesses, you still want to have them state their
19 name for the record.

20 MR. CARROLL: Okay. We have with us
21 Valerie Zambito and Mark Stone, who are with
22 Mirant; Dale Shileikis and Kelly Haggerty, who are
23 with URS Corporation; Juanito Jamias, with Moffatt
24 and Nichol; Paul Menaker, with Korve Engineering.
25 Those are all the individuals that will be called

1 as witnesses.

2 We also have Marcus Young, with Singer
3 and Associates, and Teddy Gray, with Singer and
4 Associates, our public relations firm, sitting in
5 the back row.

6 PRESIDING COMMISSIONER PERNELL: Okay.

7 Good morning and welcome.

8 Staff, please.

9 MR. WESTERFIELD: Bill Westerfield,
10 representing the CEC staff. Good morning.

11 PRESIDING COMMISSIONER PERNELL: Good
12 morning.

13 MR. WESTERFIELD: To my immediate left
14 is Kevin Kennedy, siting program manager for the
15 CEC, and to his left is Mark Pryor, project
16 manager for the Potrero Seven Project.

17 We also have with us today Jim Fore, who
18 will testify as to traffic and transportation
19 later on.

20 PRESIDING COMMISSIONER PERNELL: All
21 right. Thank you.

22 Intervenors: City and County of San
23 Francisco, good morning.

24 MS. MINOR: Good morning. Jackie Minor
25 for the City and County of San Francisco. None of

1 our witnesses are here this morning.

2 PRESIDING COMMISSIONER PERNELL: Okay.

3 We can proceed without them, or --

4 MS. MINOR: We can. We have no
5 witnesses for this morning.

6 PRESIDING COMMISSIONER PERNELL: Okay,
7 great.

8 All right. We also have our public
9 adviser --

10 HEARING OFFICER VALKOSKY: We have the
11 other --

12 PRESIDING COMMISSIONER PERNELL: Oh, I'm
13 sorry, other intervenors?

14 MR. ROSTOV: William Rostov for
15 Communities for a Better Environment. And, just
16 to let you know, Anne Simon will no longer be
17 working on this case. She's taken a job with the
18 Public Utilities Commission as an administrative
19 law judge, so --

20 PRESIDING COMMISSIONER PERNELL: Oh,
21 well, congratulations to Anne.

22 MR. ROSTOV: Yes. And I've prepared a
23 document --

24 PRESIDING COMMISSIONER PERNELL: Well, I
25 should -- maybe congratulations. Maybe I should

1 let her say that.

2 MR. ROSTOV: I think she's happy about
3 it.

4 PRESIDING COMMISSIONER PERNELL: Good,
5 good. Well, certainly give her our best.

6 HEARING OFFICER VALKOSKY: Mr. Rostov,
7 will you have a substitute for the council form?

8 MR. ROSTOV: Yes. I've filled it out
9 and we'll serve it today.

10 HEARING OFFICER VALKOSKY: Thank you.

11 MS. KEEVER: Marcie Kever. I'm with
12 the Environmental Law and Justice Clinic at Golden
13 Gate University. I'm here on behalf of Southeast
14 Alliance for Environmental Justice and Our
15 Children's Earth Foundation.

16 PRESIDING COMMISSIONER PERNELL: Okay.

17 Are there any other intervenors?

18 Are there any other public agencies?

19 Okay. We do have our public adviser,
20 Ms. Mendonca, who will kind of take us through the
21 public adviser's responsibility very briefly.

22 PUBLIC ADVISER MENDONCA: Thank you very
23 much, Commissioner Pernell. I am Roberta
24 Mendonca, the Energy Commission's public adviser.
25 At the back is a sign-in sheet. I would encourage

1 you all to leave your business card or sign in.

2 In addition, we have a one-page description of
3 what goes on at an evidentiary hearing, formal
4 hearing, so that members of the public can
5 understand that we're here today to take testimony
6 to resolve contested issues.

7 The public will be asked to fill out a
8 blue card. I'll collect the blue cards, and that
9 way you can be called upon in a timely fashion to
10 make your public comment. If there are any other
11 questions, my office would be glad to be of
12 assistance. Thank you very much.

13 PRESIDING COMMISSIONER PERNELL: Thank
14 you.

15 At this time I'd like to turn the
16 hearing over to our hearing officer, Mr. Valkosky.

17 HEARING OFFICER VALKOSKY: Thank you,
18 Commissioner.

19 The purpose of these formal evidentiary
20 hearings is to establish the factual record
21 necessary to reach a decision in this case. This
22 is done through the taking of written and oral
23 testimony as well as exhibits from the parties.
24 These hearings are more structured than the
25 Committee conferences and the informal staff

1 workshops which have already occurred.

2 Parties sponsoring a witness shall
3 briefly establish the witness's qualifications,
4 and have the witness orally summarize prepared
5 testimony before requesting that the testimony be
6 moved into evidence. Relevant exhibits may also
7 be offered into evidence at that time as well.

8 At the conclusion of a witness's direct
9 testimony, the Committee will provide the other
10 parties who have so requested an opportunity for
11 cross-examination, followed by redirect and
12 recross, as appropriate. At the conclusion of
13 each topic area we will provide an opportunity for
14 public comment on that topic area.

15 Parties are encouraged to consolidate
16 presentations by witnesses and/or cross-
17 examination to the greatest extent possible in
18 order to minimize duplication and conserve hearing
19 time. Parties sponsoring multiple witnesses on a
20 topic area should have those witnesses testify as
21 a panel if possible.

22 Before we begin, I'd like to point out a
23 few things to assist in efficiently conducting
24 these hearings. Realize that unless you have
25 prefiled testimony for your witness's direct in

1 the hearing order, you will not be allowed to have
2 the witness testify. Please don't be repetitive
3 in asking questions. Several different parties
4 interested in the same matter should consolidate
5 their presentations and questioning where
6 possible.

7 Questioning should be limited to
8 relevant matters within the scope of the witness's
9 testimony. Please don't argue with the witness.
10 And for the attorneys, please don't testify while
11 cross-examining the witness. When asking a
12 question, refer to a specific page of the
13 witness's testimony and/or exhibit that that
14 witness is sponsoring. Direct testimony must be
15 matters within the witness's personal knowledge.

16 There are different rules for witnesses
17 who qualify as experts. These types of witnesses,
18 by virtue of their education and experience, are
19 entitled to render expert opinion based on public
20 studies, reports, and so forth.

21 You should also have two documents which
22 were e-mailed to you about a week and a half ago.
23 One is entitled the revised attachment A and B.
24 It's a schedule of the topics we'll be going over
25 today and tomorrow, and the other is the tentative

1 exhibit list. The parties, to the extent that
2 you're moving an entire exhibit into evidence,
3 please refer to this exhibit list so that we can
4 all keep track of what is actually in the
5 evidentiary record and what is not.

6 Before we begin, are there any
7 questions?

8 Okay. The first four topics at the
9 prehearing conference indicated there was minimal
10 if any controversy, and we will go through those
11 on the assumption that they will be taken by
12 declaration.

13 First topic, general conditions and
14 compliance. Mr. Carroll?

15 MR. CARROLL: On this topic area
16 Applicant filed a declaration by Valerie Zambito
17 which was executed on May 29th, 2002. We have
18 nothing to add to the declaration and at this
19 point we would simply move the admission into the
20 record of the exhibits sponsored by Ms. Zambito in
21 the topic area of general conditions, compliance,
22 and closure. And those are identified portions of
23 what has been marked as Exhibit One, which is the
24 application for certification, specifically
25 section four of that exhibit.

1 And then the portions of Exhibit 2A,
2 which is the exhibit that was the filing of the
3 declarations and prepared testimony. So
4 Ms. Zambito's declaration that was part of
5 Exhibit 2A, we would seek the movement of that
6 document into the record as well.

7 HEARING OFFICER VALKOSKY: Is there
8 objection?

9 Ms. Minor?

10 MS. MINOR: In preparing for the hearing
11 today, we had an opportunity to look more closely
12 at Ms. Zambito's declaration, and we do have
13 several limited questions related to the
14 Applicant's objection to the CEC staff
15 recommendation that construction commence in one
16 year; specifically, it relates to page two,
17 paragraph eight of Ms. Zambito's declaration.

18 HEARING OFFICER VALKOSKY: Okay. Well,
19 Ms. Minor, the Committee shares those concerns or
20 analogous concerns.

21 Mr. Carroll, do you have any objection
22 to calling Ms. Zambito -- She's here, I
23 understand -- to answer the questions concerning
24 the milestone issue?

25 MR. CARROLL: She is here. I would have

1 no objection to calling her to answer those
2 questions.

3 HEARING OFFICER VALKOSKY: Okay.

4 Ms. Zambito?

5 MR. ROSTOV: CBE may also want to cross-
6 examine on this issue as well, but after the City.

7 HEARING OFFICER VALKOSKY: Okay, limited
8 just to --

9 MR. ROSTOV: Right.

10 HEARING OFFICER VALKOSKY: -- limited
11 only to the milestone questions.

12 MR. ROSTOV: Yes.

13 HEARING OFFICER VALKOSKY: Okay.

14 Would you swear in the witness, please.

15 THE REPORTER: Would you raise your
16 right hand, please.

17 Whereupon,

18 VALERIE ZAMBITO

19 Was called as a witness herein and, after first
20 being duly sworn, was examined and testified as
21 follows:

22 HEARING OFFICER VALKOSKY: Do you have
23 any sort of direct you want to perform, or should
24 we just go right to the questions?

25 MR. CARROLL: Well, let me just sort of

1 set it up, I think. We all know what we're
2 talking about, but I'll lay some foundation for
3 it.

4 HEARING OFFICER VALKOSKY: Okay.

5 DIRECT EXAMINATION

6 BY MR. CARROLL:

7 Q Ms. Zambito, could you please state your
8 name for the record.

9 A Valerie Zambito.

10 Q And what is your title?

11 A Director of technical support.

12 Q And what are your responsibilities with
13 respect to the project?

14 A Engineering and design oversight.

15 Q And are you the same Valerie Zambito
16 that submitted a declaration entitled declaration
17 of Valerie Zambito regarding general conditions,
18 compliance, and closure, which was filed in this
19 matter and has now been marked as a portion of
20 Exhibit 2A?

21 A Yes.

22 MR. CARROLL: Ms. Zambito is tendered
23 for cross-examination in this topic area.

24 HEARING OFFICER VALKOSKY: Ms. Minor.

25 MS. MINOR: Good morning, thank you.

1 CROSS-EXAMINATION

2 BY MS. MINOR:

3 Q In your declaration, specifically
4 paragraph eight, page two, you indicate that there
5 are two primary reasons why Mirant believes that
6 it will not be able to meet a one-year
7 construction time frame.

8 Would you specify, please, for the
9 record what those two reasons are.

10 A Timing is a very difficult thing in
11 planning, equipment deliveries, and scheduling of
12 the work to be done. With the uncertainty that
13 we're dealing with, it just makes it very
14 difficult to schedule the project to be done one
15 year after -- a one-year construction period.

16 PRESIDING COMMISSIONER PERNELL: My
17 understanding is that this is to start
18 construction or to be complete? In your
19 declaration are you referring to the one year as
20 to start of construction or one year as to
21 completion of the project?

22 THE WITNESS: Commencement of
23 construction.

24 MS. MINOR: If I could continue.

25 BY MS. MINOR:

1 Q One of the outstanding issues is whether
2 or not the National Marine Fisheries Service has
3 deemed Mirant's biological and habitat assessment
4 adequate. The reason for this question is that
5 that is part of the timing as to when the
6 biological opinion would be issued.

7 Do you know whether or not the
8 additional submissions to National Marine
9 Fisheries have been deemed adequate?

10 A I don't know.

11 Q You don't know. Okay, thank you.

12 Do you know what the time line is for
13 receipt of the Endangered Species Act opinion from
14 EPA?

15 A I don't know.

16 Q Okay. Is Mirant currently in
17 discussions with the City of San Francisco,
18 specifically the Port, over the real estate rights
19 that you indicated in paragraph eight are
20 required?

21 A I don't know.

22 Q My last question: If Mirant modified
23 the project to use a cooling system that does not
24 rely on once-through cooling, would Mirant be able
25 to commence construction in one year?

1 A No. The complications with the one-year
2 constraint is primarily just the deliveries of
3 major equipment and all of the coordination
4 effort, with all of the contracts and delivery of
5 equipment. So whether it's a once-through or a
6 cooling tower or some alternative cooling, it
7 would still be very difficult with the steam
8 turbines, gas turbines, HRSGs, etc.

9 Q Okay. Just a followup, because I am now
10 looking at your testimony, your written testimony,
11 page two, paragraph eight, lines ten through 15,
12 where it appears that the reason that you cannot
13 meet a one-year construction time frame is because
14 of the Endangered Species Act opinion that is
15 required and the negotiation with real estate, of
16 real estate rights with the City, which also
17 relates to once-through cooling.

18 So can you -- Would you be a little bit
19 more specific for us about the reasons why Mirant
20 cannot meet a one-year construction time frame?

21 A Well, I think with the uncertainty of
22 knowing when we're going to get all of that done,
23 once we get approval then we will immediately
24 start with the project management part of it and
25 the equipment and everything I was saying prior.

1 But with the difficulties of not knowing when
2 those approvals will come in, as it's stated in
3 here, the timing associated with the process is
4 uncertain and make it impossible to commence
5 construction.

6 MS. MINOR: Okay. Thank you.

7 MR. ROSTOV: I just have a couple more.

8 CROSS-EXAMINATION

9 BY MR. ROSTOV:

10 Q PG&E has a responsibility for the
11 cleanup of hazardous materials at the site,
12 correct, and they're in bankruptcy. I was
13 wondering if the bankruptcy will slow up the
14 cleanup schedule and have an effect on your
15 construction schedule?

16 A I don't know the answer to that.

17 Q And another question is how do you
18 obtain financing for this project? Financing is
19 one of the issues that you need for commencing
20 construction.

21 MR. CARROLL: I'm going to object to the
22 relevancy of that question.

23 HEARING OFFICER VALKOSKY: I'll let the
24 witness answer to the extent of her knowledge.

25 THE WITNESS: Mirant looks at every

1 individual project and decides how to go about
2 financing it. I really don't know -- I think
3 that's still open for the company to decide as to
4 how we're going to go about financing.

5 MR. ROSTOV: All right. One more
6 question.

7 BY MR. ROSTOV:

8 Q On page 3.1 of the final staff
9 assessment, the CEC staff states that "Mirant
10 expects the plant to be operational within two
11 years of certification."

12 Is this no longer true?

13 A Two years from commencement of
14 construction, that is still true.

15 MR. WESTERFIELD: I'm sorry, I didn't
16 hear that answer.

17 THE WITNESS: Two years from
18 commencement of construction, that statement is
19 still true.

20 MR. ROSTOV: Okay. That statement was
21 within two years of certification, but I
22 understand. Thank you.

23 HEARING OFFICER VALKOSKY: You raise a
24 question in my mind. Does Applicant have any
25 projected time between ultimate certification and

1 the commencement of construction?

2 THE WITNESS: No, sir. We would like to
3 start immediately upon approval.

4 HEARING OFFICER VALKOSKY: Okay.

5 SAEJ, any questions?

6 MS. KEEVER: No.

7 HEARING OFFICER VALKOSKY:

8 Mr. Westerfield?

9 MR. WESTERFIELD: Staff has no
10 questions.

11 HEARING OFFICER VALKOSKY: Any redirect,
12 Mr. Carroll?

13 MR. CARROLL: No redirect. I would
14 simply point out that subsequent experts'
15 narrative, biology and soils and water, would be
16 prepared to answer some of the questions that were
17 asked in those areas today. So if the intervenors
18 want to hold those questions, we'd be happy to
19 answer them when we have those experts here.

20 HEARING OFFICER VALKOSKY: Okay, thank
21 you for that clarification.

22 Okay, and with that, is there any
23 objection to receiving portions of Exhibit One and
24 2A?

25 MR. WESTERFIELD: No objection.

1 MS. MINOR: No objection.

2 HEARING OFFICER VALKOSKY: No
3 objections?

4 HEARING OFFICER VALKOSKY: They're
5 admitted.

6 Thank you, Ms. Zambito.

7 PRESIDING COMMISSIONER PERNELL: Thank
8 you.

9 (The witness was excused.)

10 HEARING OFFICER VALKOSKY:
11 Mr. Westerfield?

12 MR. WESTERFIELD: Thank you. Staff
13 prepared written testimony as part of the FSA on
14 general conditions and compliance and closure and
15 submitted that as part of the FSA, which is
16 Exhibit Three, and we would like to move that into
17 evidence.

18 HEARING OFFICER VALKOSKY: Thank you.

19 Is there objection?

20 MR. CARROLL: No objection from
21 Applicant.

22 MS. MINOR: No objection.

23 HEARING OFFICER VALKOSKY: Seeing no
24 objection, it's so admitted.

25 Mr. Westerfield, before we move off this

1 topic, at the prehearing conference the Committee
2 requested that Staff enlighten the Committee and
3 the parties concerning Commission policy regarding
4 the imposition of construction milestones. Has
5 Staff done that?

6 MR. WESTERFIELD: To my knowledge Staff
7 has not gotten back to the Committee on that
8 question. I think the reason for that is the
9 policy is under review, and it is being worked on
10 by staff, and I don't believe it has a position
11 yet that it can go forward with.

12 HEARING OFFICER VALKOSKY: So is it your
13 statement that there is no official Commission
14 policy concerning imposition of construction
15 milestones?

16 Mr. Kennedy?

17 MR. KENNEDY: This is Kevin Kennedy.
18 The siting division staff is currently working on
19 finalizing the Commission's, working with the
20 siting committee on finalizing the Commission's
21 position on the construction milestones. As I
22 understand at the moment, we are standing behind
23 the FSA testimony, suggesting the imposition of
24 those milestones.

25 Should that change in our continuing

1 discussions and development of the policy, we will
2 inform the Committee as soon as possible.

3 HEARING OFFICER VALKOSKY: Okay, but if
4 I understand what you're saying, the policy is an
5 evolving one because we have to go to the siting
6 committee, and I assume to the full Commission for
7 adoption as a policy; is that correct?

8 MR. KENNEDY: Whether it will get to the
9 full Commission as a formal policy I'm not sure,
10 but we are continually to work both at the staff
11 level and with the Commissioners on setting a
12 policy.

13 HEARING OFFICER VALKOSKY: Okay. Just
14 to make things very clear, then, if I looked at
15 you today and I said give me the document which
16 summarizes the official Commission policy, one
17 does not exist; is that correct?

18 MR. KENNEDY: One does not exist at the
19 moment.

20 HEARING OFFICER VALKOSKY: Thank you.
21 Is there any public comment on the areas
22 of compliance and general conditions?

23 Seeing none, we'll close the record on
24 that topic.

25 Next, terrestrial biology. Mr. Carroll?

1 MR. CARROLL: Thank you. On May 29th
2 Applicant filed the declaration of Mr. Patrick
3 Mock with respect to terrestrial biology. We have
4 nothing to add to that declaration and so would
5 move admission into the record of the following
6 exhibits sponsored by Patrick Mock in the area of
7 terrestrial biology: the identified portions of
8 Exhibit One, the identified portions of
9 Exhibit 2A, Exhibit 2B, identified portions of
10 Exhibits Four, Five, Six, Seven, and Eight.

11 HEARING OFFICER VALKOSKY: Is there
12 objection?

13 Seeing no objection, they're admitted.

14 Anything else to add, Mr. Carroll?

15 MR. CARROLL: Nothing further.

16 HEARING OFFICER VALKOSKY:
17 Mr. Westerfield?

18 MR. WESTERFIELD: The Staff prepared
19 formal testimony, written testimony on terrestrial
20 biology as part of its final staff assessment
21 prepared by February. It has nothing to add to
22 that testimony at this time and so would like to
23 move that into the record.

24 HEARING OFFICER VALKOSKY: So you're
25 moving that portion of Exhibit Three?

1 MR. WESTERFIELD: Of Exhibit Three, yes,
2 at the moment.

3 HEARING OFFICER VALKOSKY: All right.
4 Is there objection to receiving that?

5 Seeing no objection, it's admitted.

6 Is there a public comment on the topic
7 of terrestrial biology?

8 Seeing no public comment, the record is
9 closed on that topic.

10 Next, geology and paleontology.
11 Mr. Carroll?

12 MR. CARROLL: Yes. Also on May 29th,
13 2002 Applicant submitted the declaration of
14 Mr. Raymond Rice in the area of geology and
15 paleontology. We have nothing to add to that
16 declaration today and so would move the admission
17 into the record of the following exhibits: those
18 portions of Exhibit One identified in the
19 declaration, those portions of Exhibit 2A
20 pertaining to Mr. Mock's declaration, as well as
21 the identified portions of Exhibits Five and Nine.

22 HEARING OFFICER VALKOSKY: Is there
23 objection?

24 Seeing no objection, they are so
25 admitted.

1 Mr. Westerfield?

2 MR. WESTERFIELD: Staff also prepared a
3 section as part of the FSA on geology and
4 paleontology, and we have no additions to make to
5 that testimony and so would like to move those
6 portions of Exhibit Three into the record.

7 HEARING OFFICER VALKOSKY: Is there
8 objection?

9 Seeing no objection, admitted.

10 Mr. Westerfield, I note that Applicant
11 had indicated a slight modification to condition
12 paleo three. Does staff object to that
13 modification?

14 MR. WESTERFIELD: Just a minute.

15 We have no objection to that.

16 HEARING OFFICER VALKOSKY: Okay, thank
17 you.

18 Any public comment on the topic area of
19 geology and paleontology?

20 Seeing none, the record is closed in
21 those areas.

22 The next topic is worker safety and fire
23 protection. Mr. Carroll?

24 MR. CARROLL: Thank you. On June 11th,
25 2002, Applicant filed the revised declaration of

1 Timothy Hamilton in the topic area of worker
2 safety and fire protection. We have nothing to
3 add to that declaration today and so would move
4 admission in the record of the identified portions
5 of Exhibit One, Exhibit 2C, and identified
6 portions of Exhibit Ten.

7 HEARING OFFICER VALKOSKY: Is there
8 objection?

9 Seeing no objection, it is so admitted.

10 Mr. Westerfield?

11 MR. WESTERFIELD: Staff also prepared a
12 chapter of the final staff assessment entitled
13 worker safety and fire protection prepared by
14 Alvin Greenberg and Rick Tyler. We have no
15 additions to that testimony and so would like to
16 move those portions of Exhibit Three into the
17 record.

18 HEARING OFFICER VALKOSKY: Is there
19 objection?

20 Seeing no objection, so admitted.

21 Mr. Carroll, I assume that Applicant has
22 no objection to the conditions suggested by staff
23 in its worker safety and fire protection portion
24 of the FSA; is that correct?

25 MR. CARROLL: That is correct.

1 HEARING OFFICER VALKOSKY: Thank you.

2 Is there any public comment on the topic
3 area of worker safety and fire protection?

4 Seeing none, we'll close the record on
5 that topic.

6 Project introduction and description.

7 As I understand it, Mr. Carroll, you have a panel
8 of three witnesses; is that correct?

9 MR. CARROLL: That is correct.

10 HEARING OFFICER VALKOSKY: Okay. Staff,
11 you will have one or two witnesses testify?

12 MR. WESTERFIELD: Two witnesses.

13 HEARING OFFICER VALKOSKY: Two witnesses
14 testify.

15 City and County of San Francisco, you
16 desire cross-examination of them, correct?

17 MS. MINOR: Yes.

18 HEARING OFFICER VALKOSKY: As does CBE;
19 is that correct?

20 MR. ROSTOV: That's correct.

21 HEARING OFFICER VALKOSKY: Okay.

22 Mr. Carroll, call your witnesses and have them
23 sworn, please.

24 MR. CARROLL: Thank you. At this time
25 Applicant calls Mr. Mark Stone, Ms. Valerie

1 Zambito, and Mr. Juanito Jamais as witness in the
2 topic areas of project description.

3 THE REPORTER: Would you all remain
4 standing and raise your right hands, please.
5 Whereupon,

6 MARK STONE, VALERIE ZAMBITO, and

7 JUANITO JAMAIS

8 Were called as witnesses herein and, after first
9 being duly sworn, were examined and testified as
10 follows:

11 MR. CARROLL: Could we go off the record
12 for one second, please?

13 HEARING OFFICER VALKOSKY: Off the
14 record.

15 (Brief recess.)

16 HEARING OFFICER VALKOSKY: Okay. The
17 witnesses have been sworn. Mr. Carroll, direct?

18 MR. CARROLL: Thank you.

19 A procedural point, and I probably
20 should have asked this when we were off the
21 record. Would you like us to conduct the direct
22 examination of all three witnesses and then tender
23 all three for cross-examination simultaneously, or
24 each of them individually upon completion of their
25 direct examination?

1 HEARING OFFICER VALKOSKY: My preference
2 is that they testify and are cross-examined as a
3 panel, if that's practical from your point of
4 view.

5 MR. CARROLL: That's fine.

6 HEARING OFFICER VALKOSKY: Okay.

7 MR. CARROLL: That's fine. We'll begin,
8 then, with Mr. Stone.

9 DIRECT EXAMINATION

10 BY MR. CARROLL:

11 Q Mr. Stone, could you please state your
12 name.

13 A My name is Mark Stone.

14 Q And could you please indicate your title
15 and your responsibilities with respect to the
16 project.

17 A I am currently the general manager of
18 construction for Mirant; however, when I began
19 work on the Potrero project in March of 1999 I was
20 the western region project management director,
21 responsible for construction of all capital
22 projects in the western region for Mirant.

23 Q And are you the same Mark Stone that
24 submitted prepared testimony in this proceeding
25 which is now a portion of Exhibit 2A?

1 A Yes, sir, I am.

2 Q And if I were to ask you the questions
3 contained in that material today under oath, would
4 your answers be the same?

5 A Yes.

6 Q And do you have any clarifications that
7 you'd like to make to the prepared testimony that
8 was filed?

9 A Yes, I do have some minor points, as I
10 understand it. In response number 22 to the City
11 and County of San Francisco, we talk about the
12 visual impact from the warm water cove park. And
13 we talk about a building shroud around the
14 equipment. It is my understanding -- Well, at the
15 time I made that statement it was a true
16 statement; we had planned to put a building shroud
17 around the equipment. It is my understanding that
18 subsequent to this time we have agreed to remove
19 the building shroud, for whatever reason.

20 Also, on question number 20, again with
21 the City and County of San Francisco, it appears
22 to me that we may not have properly understood the
23 question. It appears to me that the question
24 really asks about access by the City and County
25 onto our property in which they have an easement.

1 And I think that our response was our use and
2 access on their property that's adjacent to the
3 proposed site.

4 In order to better answer question
5 number 20, will their access onto our property be
6 impacted during construction, the answer is to
7 some extent that it will be, that they will not
8 have free access probably on 23rd Street during
9 portions and times of construction; however, we do
10 believe that we can work out access as needed by
11 the City in an amiable manner.

12 Q Also, on page 2.55, table 214, the cost
13 of the project was estimated at between \$261 and
14 \$321 million, I think that we had officially gone
15 on record now as stating that the cost of the
16 project would be in excess of \$400 million.

17 And the final point, again at the time
18 that the statement was made on the transmission
19 interconnection to PG&E's Hunter's Point switch
20 yard, the statements made during that portion were
21 true; however, I understand that we have made
22 further arrangements with the Hetch Hetchy
23 organization and may have modified some of the
24 things that were recorded there.

25 Q And with respect to your last point of

1 clarification regarding modifications to the
2 interconnection, will Applicant's witness,
3 Mr. Jenkins, in the area of transmission deal with
4 that in more detail?

5 A Yes, sir. He's our electrical
6 transmission expert on construction.

7 Q Thank you. Am I correct that there are
8 also a number of exhibits identified in your
9 prepared testimony that you're sponsoring today?

10 A Yes, sir.

11 Q And are you also sponsoring the
12 following additional exhibits not identified in
13 your prepared testimony, which consist of
14 amendments to the original AFC -- There are three
15 of them -- portions of the station A amendment to
16 the AFC, which has been identified as Exhibit 15;
17 portions of the supplemental information provided
18 in response to CEC data adequacy request, which is
19 docket number 15650, which has not yet been
20 identified as an exhibit in these evidentiary
21 hearings; and the third being the amendment to the
22 AFC, which you referred to earlier that eliminated
23 the shroud or the facade -- That is docket number
24 19851, and again, has not been identified with an
25 exhibit number in these evidentiary hearings.

1 Are you also sponsoring those three
2 additional exhibits?

3 A Yes.

4 Q And can you provide a brief description
5 of us? I'm sorry, for us?

6 HEARING OFFICER VALKOSKY: Okay, one
7 second, Mr. Carroll.

8 MR. CARROLL: Yes.

9 HEARING OFFICER VALKOSKY: The first
10 document you mentioned, 15650, could you give me a
11 full description of that, please, the full title
12 of it.

13 MR. CARROLL: Yes.

14 HEARING OFFICER VALKOSKY: It does have
15 a docket number; it has been docketed, obviously,
16 I assume, right?

17 MR. CARROLL: That's right. These
18 are -- And maybe I could just clarify for
19 everyone. In the prepared testimony, we referred
20 to the AFC as a single document, and that
21 reference was intended to be as amended, but there
22 were, in fact, a number of amendments to the AFC
23 that are docketed as separate documents in the
24 Commission's record. So what we're doing here is
25 making sure that we've got the entire AFC entered

1 into the record, including those amendments?

2 HEARING OFFICER VALKOSKY: That's good.
3 I would just like a specific identification of
4 each one.

5 MR. CARROLL: Okay. As I said, the
6 first one that was mentioned is generally what's
7 referred to as the station A amendment. The
8 Committee has identified that as Exhibit 15.

9 HEARING OFFICER VALKOSKY: Right.

10 MR. CARROLL: The second one that is
11 mentioned is supplemental information that was
12 submitted to the Energy Commission during the data
13 adequacy review, and this was additional
14 information to respond to requests from the
15 Commission staff for data adequacy. It's called
16 supplemental information provided in response to
17 CEC data adequacy requests, docket number 15650,
18 and it was docketed on August 31st, 2000.

19 And then the third document that was
20 referred to as an amendment to the AFC, which
21 eliminated what Mr. Stone referred to as the
22 shroud. In the document title it states
23 elimination of facade, and that is docket number
24 19851, which was docketed on April 20th, 2001.
25 And those latter two have not been identified by

1 the Committee in the current exhibit list.

2 HEARING OFFICER VALKOSKY: Okay. On the
3 supplemental information, we'll assign Exhibit 22.
4 And the amendment eliminating the facade will be
5 Exhibit 23.

6 MR. CARROLL: Thank you.

7 BY MR. CARROLL:

8 Q Mr. Stone, could you provide for us a
9 brief description of the project, please.

10 A Yes, sir. The proposed Unit Seven
11 project would be sited at the existing Potrero
12 power plant in the Potrero neighborhood of San
13 Francisco. The new unit would be constructed
14 wholly on the site of the existing unit, and would
15 rely on several of the existing plant's utility
16 systems, such as the water treatment system, the
17 fire water supply, shared ammonia supply systems,
18 and shared switch yard facilities.

19 The generator output from the new unit
20 would be stepped up to voltage, transmission
21 voltage, and interconnected to both the PG&E
22 switch yard, which is adjacent to the existing
23 Potrero site. And also, through an underground
24 transmission interconnection to Pacific Gas and
25 Electric's Hunter's Point substation.

1 The section two portion of the
2 application also contains descriptions and
3 explanations of the site plan and access process
4 descriptions, the combustion and steam turbines
5 and their generators, the heat recovery steam
6 generation system, water supply and use, waste
7 management, management of hazardous materials,
8 emissions control, fire protection systems, plant
9 auxiliaries, interconnections to the electrical
10 grid, project construction. Our facility safety
11 design including natural hazards and emergency
12 systems, facility reliability, water availability,
13 and project control -- project quality control,
14 excuse me.

15 Q Thank you, and does that complete your
16 testimony today?

17 A Yes, sir.

18 MR. CARROLL: Thank you very much.

19 At this time we will turn to
20 Ms. Zambito.

21 BY MR. CARROLL:

22 Q Ms. Zambito, could you please state your
23 name for the record.

24 A Valerie Zambito.

25 Q And what is your title and role with

1 respect to the project?

2 A I'm director of technical support, and I
3 have the engineering design oversight of the
4 facility.

5 Q And to assist the Committee and the
6 others here, could you briefly explain the
7 distinction between your role and Mr. Stone's
8 role.

9 A Mr. Stone has overall project
10 responsibility, project management
11 responsibilities, and I support the engineering
12 design of that, bringing the operability and
13 maintainability of the facility into the design.

14 Q And are you the same Valerie Zambito
15 that submitted prepared testimony in this
16 proceeding which has now been marked as a portion
17 of Exhibit 2A?

18 A Yes.

19 MR. CARROLL: Before proceeding with
20 Ms. Zambito, I'd like to make several
21 typographical corrections to her prepared
22 testimony.

23 In question numbers ten and eleven of
24 the prepared testimony, the cross-reference to
25 question number seven should be to question number

1 eight. And in question number 18 of the prepared
2 testimony, the cross-reference to question numbers
3 15 and 16 should be to question numbers 16 and 17.

4 BY MR. CARROLL:

5 Q Ms. Zambito, if I were to ask you the
6 questions contained in your prepared testimony as
7 just corrected by me, would your answers today be
8 the same under oath?

9 A Yes, with the clarifications made by
10 Mr. Stone.

11 Q I'd like you to clarify your prepared
12 response to question 15. Is the proposed
13 transmission cable between the Potrero substation
14 and the PG&E Hunter's Point substation part of the
15 project that is currently under evaluation by the
16 Energy Commission?

17 A Yes, although the transmission cable is
18 currently under construction. It's part of the
19 City of San Francisco's Third Street light rail
20 project. And the acts associated with the
21 construction have been previously analyzed in
22 other environmental documents.

23 Applicant has also included the cable in
24 the Unit Seven project for review and approval by
25 the Energy Commission.

1 Q Thank you. And am I correct that there
2 are also a number of exhibits identified in your
3 prepared testimony that you're sponsoring today?

4 A Yes, that's correct.

5 Q And are you also co-sponsoring with
6 Mr. Stone the three additional exhibits that we
7 went over during Mr. Stone's testimony?

8 A Yes.

9 Q And those would be the portions of the
10 station A amendment, the supplemental information
11 in response to CEC data requests, data adequacy
12 requests, and the amendment to the AFC eliminating
13 the facade?

14 A Yes.

15 Q Do you have anything to add to the
16 description of the project that was provided by
17 Mr. Stone?

18 A No.

19 Q Thank you. Does that complete your
20 testimony today?

21 A Yes.

22 MR. CARROLL: Thank you.

23 Turning now to Mr. Jamais --

24 BY MR. CARROLL:

25 Q Mr. Jamais, could you please state your

1 name and your title for the record.

2 A Juanito Jamais. I'm a civil engineer.

3 Q And what company are you employed with?

4 A I'm with Moffatt and Nichol Engineers.

5 Q Thank you. And are you the same Juanito
6 Jamais that submitted prepared testimony in this
7 proceeding which has now been identified as
8 Exhibit 2A?

9 A Yes.

10 MR. CARROLL: Before proceeding with
11 Mr. Jamais's testimony, I'd like to make a
12 typographical correction to his prepared
13 testimony.

14 In question number 11, the cross-
15 references to question numbers 15 and 16 should be
16 to question numbers nine and ten.

17 BY MR. CARROLL:

18 Q Mr. Jamais, if I were to ask you the
19 questions contained in your prepared testimony as
20 just corrected by me today, under oath would your
21 answers be the same?

22 A Yes, with two clarifications. First, I
23 did not participate in the preparation of section
24 two of the AFC. That was done by the URS
25 Corporation; however, I'm familiar with the

1 contents of that section of the AFC as they
2 pertain to the proposed clean water system for the
3 project.

4 Second, the cooling system described in
5 section two of the AFC was subsequently modified
6 in certain respects, as set forth in what has been
7 identified as Exhibit Number 13, which was filed
8 in my prepared testimony. So section two of the
9 AFC is not correct to the extent that it's
10 inconsistent with Exhibit 13.

11 Q Thank you. And again, to assist the
12 Committee and the others in the room, could you
13 briefly explain your role with respect to the
14 project, relative to Mr. Stone's and Ms. Zambito's
15 role?

16 A My role is the consultant for the design
17 of the cooling water intake and discharge
18 structure.

19 Q Thank you. And am I correct that there
20 are also a number of exhibits identified in your
21 prepared testimony that you are also sponsoring
22 today?

23 A Yes.

24 Q And could you please provide us a brief
25 description of the project's proposed cooling

1 system.

2 A The proposed cooling water system is a
3 reinforced concrete structure at the waterfront of
4 the existing Potrero power plant, Unit Three. It
5 will be about 200 feet long by about 90 feet wide,
6 taking water from the Bay with 16 bays opening in,
7 and it will have a discharge structure consisting
8 of four pipelines discharging into the Bay.

9 Q Thank you, and does that complete your
10 testimony today?

11 A Yes.

12 MR. CARROLL: Thank you very much.

13 Mr. Stone, Ms. Zambito, and Mr. Jamais
14 are now tendered for cross-examination in the area
15 of project description.

16 HEARING OFFICER VALKOSKY: Before we
17 begin cross, I have a few questions of
18 clarification. And I'm just going to address them
19 to the panel in general. Mr. Carroll, you can
20 call on the appropriate witness or the witnesses
21 can volunteer themselves.

22 First, in the Applicant's mind, what are
23 the basic project purposes and objectives?

24 MR. CARROLL: If we could, we'd actually
25 like to ask that that question be reserved for the

1 project manager, Mr. Harrer, when he is here.

2 These witnesses are limited to technical
3 information regarding the project and that area
4 falls more appropriately, I think, into
5 Mr. Harrer's area of testimony.

6 HEARING OFFICER VALKOSKY: Okay.

7 What land use entitlements are needed to
8 construct and operate the project as proposed by
9 land use entitlements, I mean, gaining access in
10 terms of an easement or fee or whatever? Is that
11 something these witnesses can answer? Gaining the
12 right to use land from, again, the City and County
13 or any other entity?

14 MR. CARROLL: In my mind that's a legal
15 question that I would be happy to answer. I don't
16 think these witnesses are prepared to answer that
17 question.

18 HEARING OFFICER VALKOSKY: Okay. Could
19 you answer it?

20 MR. CARROLL: Yes, I would. As
21 currently proposed, the project, in addition to
22 the CEC certification, would require several local
23 land use approvals, one of them relating to the
24 proposed cooling system, a license agreement from
25 the Port of San Francisco, and approved by the

1 Port supervisors for the City and County of San
2 Francisco would be required to install the cooling
3 system intake at the shoreline, as well as the
4 cooling system discharge pipes on the bottom of
5 the Bay.

6 In addition to that, license agreements
7 would be required for the installation of the
8 underground transmission cable, which Mr. Jenkins
9 will discuss in more detail tomorrow, but as part
10 of the transmission interconnection of the
11 project, there is a cable that would run from the
12 Potrero substation to the Hunter's Point
13 substation. That cable would also run through
14 Port and/or City property and would require a
15 license agreement or some similar type of
16 agreement from the City and County of San
17 Francisco.

18 HEARING OFFICER VALKOSKY: Do you have
19 an estimate as to how long it would take to
20 acquire all of those entitlements?

21 MR. CARROLL: I do not. We have been in
22 discussions with the City and County of San
23 Francisco and the Port of San Francisco on both of
24 those agreements for some time. I would say they
25 are not imminent at this point and there are a

1 number of issues that need to be resolved. It's
2 difficult to give a precise estimate. It's
3 certainly a matter of months as opposed to a
4 matter of days or weeks, but I would not think
5 that it would be; hopefully, a matter of years.

6 HEARING OFFICER VALKOSKY: Okay. Am I
7 correct in assuming that any and all of these
8 entitlements can be denied by the City and County
9 or the Port?

10 MR. CARROLL: Yes. I think they have
11 discretion to deny those approvals. Whether or
12 not that denial could be challenged I'm not really
13 prepared to render an opinion on, but I think that
14 they do have the discretion to deny the approvals.
15 That denial could be subject to challenge by the
16 Applicant, but to answer --

17 HEARING OFFICER VALKOSKY: No,
18 understood, but it is a discretionary approval
19 with one of those entities.

20 MR. CARROLL: Yes, it is.

21 HEARING OFFICER VALKOSKY: Thank you.

22 Ms. Zambito, page seven of your, I
23 believe it's page seven of your testimony, you
24 indicate a modified operating profile for the
25 project, is that correct, in terms of hours?

1 WITNESS ZAMBITO: Yes, sir.

2 HEARING OFFICER VALKOSKY: I'm sorry?

3 WITNESS ZAMBITO: Yes.

4 HEARING OFFICER VALKOSKY: To your
5 knowledge, are these -- Let me back up. Am I
6 correct in characterizing this as a reduced
7 operating profile from that which was originally
8 proposed?

9 WITNESS ZAMBITO: Yes.

10 HEARING OFFICER VALKOSKY: To your
11 knowledge, will these reductions be enforceable?
12 By that, I mean will they be incorporated in a
13 permit, such as the air permit?

14 WITNESS ZAMBITO: These are projected
15 hours of what we assume the plant will be
16 operating and were assumed in the air modeling
17 that we did.

18 HEARING OFFICER VALKOSKY: Okay. So
19 this is a voluntary reduction, if I could look at
20 it that way?

21 WITNESS ZAMBITO: What we did was we
22 looked at the specific maintenance requirements of
23 the unit and we did some analysis as to what we
24 thought the need for the power would be, and this
25 is what we project that it will -- this is the

1 operating scenario that we project will occur.

2 HEARING OFFICER VALKOSKY: Okay, but
3 this operating scenario is not required in, for
4 example, your air permit; is that correct?

5 MR. CARROLL: Again, if I could address
6 the legality and the enforceability of these
7 revised limits, the answer is that we would expect
8 them to be reflected both in the CEC conditions
9 and in the air permit.

10 HEARING OFFICER VALKOSKY: Okay.

11 MR. CARROLL: So the answer is yes, they
12 are voluntary, but once committed to we would
13 expect the Air District to modify the conditions
14 in the permit. We would expect the Energy
15 Commission to modify the conditions of
16 certification to make them enforceable.

17 HEARING OFFICER VALKOSKY: Okay. Now
18 I'm going to go a little far afield, so I don't
19 want the other parties to do this but I'm
20 indulging myself.

21 Right now the FDOC does not reflect
22 these limitations; is that correct?

23 MR. CARROLL: That is correct.

24 HEARING OFFICER VALKOSKY: Will you be
25 seeking an amendment of the FDOC within the

1 confines of this proceeding to so reflect these
2 limitations?

3 MR. CARROLL: Yes, we will.

4 HEARING OFFICER VALKOSKY: Thank you.
5 And that's all we need to know about it today.

6 Okay. Mr. Carroll, did you have any
7 exhibits to move?

8 MR. CARROLL: Yes. At this time we
9 would move the admission into the record of the
10 following exhibits sponsored or co-sponsored by
11 Mr. Stone: the identified portions of Exhibit
12 One, identified portions of Exhibit 2A, identified
13 portions of Exhibit Eight, identified portions of
14 Exhibits Nine, Ten, 11, 15, 22, and 23.

15 HEARING OFFICER VALKOSKY: Thank you.

16 Is there objection?

17 Seeing no objection, those exhibits
18 and/or appropriate portions are --

19 MR. CARROLL: Excuse me, I'm sorry,
20 Mr. Valkosky, I have some additional exhibits
21 sponsored by Ms. Zambito and Mr. Jamais as well.

22 HEARING OFFICER VALKOSKY: Oh, I'm
23 sorry, okay.

24 MR. CARROLL: In addition to those just
25 identified, Ms. Zambito is sponsoring Exhibit 12,

1 and in addition, Mr. Jamais is sponsoring
2 Exhibit 13. And that completes the list.

3 HEARING OFFICER VALKOSKY: Okay, thank
4 you.

5 Is there objection?

6 Seeing no objection, they're admitted.

7 Cross-examination, Ms. Minor?

8 MS. MINOR: I appreciate your taking the
9 lead to get clarification from Ms., actually from
10 Mr. Carroll, as it turns out he was the witness,
11 on the reduction in the operating hours. Just one
12 further question for clarification of the record
13 on that issue.

14 Will Mirant specifically be modifying
15 its pending application to reflect those changes,
16 its application pending before the CEC?

17 MR. CARROLL: Yes.

18 MS. MINOR: Thank you. I have several
19 questions related to the dual fuel capability of
20 Unit Three. And it is not clear to me that
21 Mr. Stone is your expert or if you have a more
22 technical expert that I should hold those
23 questions for.

24 MR. CARROLL: I guess our view is that
25 Unit Three isn't really part of these proceedings,

1 so I don't know that we are planning to introduce
2 any witnesses that are experts with respect to
3 Unit Three, but I guess what I would say is if you
4 want to ask your questions to me, we'll do our
5 best to answer them.

6 CROSS-EXAMINATION

7 BY MS. MINOR:

8 Q I would like to show Mr. Stone, and I'll
9 pass it to him, a map. It is figure 2A. I have
10 extra copies. Let's get those out.

11 PRESIDING COMMISSIONER PERNELL: Can we
12 go off the record a minute, please.

13 (Brief recess.)

14 MS. MINOR: The map that is in front of
15 Mr. Stone, it's called feeder 2A, it is entitled
16 the existing facility layout without Unit Seven.
17 The map is part of Exhibit Three, and is included
18 in the project description of the FSA after page
19 3-3 that has been admitted into the record.

20 The specific question that I have
21 relates to whether Unit Three will continue to
22 have dual fuel capability in the next several
23 years.

24 BY MS. MINOR:

25 Q Mr. Stone, do you know?

1 A The person that you probably best need
2 to talk to is our Mr. Harrer, the project
3 director. It is my understanding that the ISO
4 requires us to have dual fuel in the event of a
5 seismic event, where we lose all the gas, they
6 wanted a dual fuel backup for that reason. That's
7 my understanding, but I'm really on the periphery
8 on this.

9 Q Okay. Mr. Stone, can you identify for
10 us, the map shows three fuel tanks. Can you
11 identify which of the fuel tanks contain the fuel
12 that provide the dual fuel capability for Unit
13 Three.

14 A That question can best be answered by
15 someone in the operations and maintenance group.
16 It is my understanding that the easternmost and
17 westernmost tanks supply dual fuel capability for
18 Unit Three, and that the center tank provides fuel
19 for the jet engines. But I'd prefer that you
20 direct that to confirm it with our operations and
21 maintenance people.

22 Q Okay, but let me just clarify the record
23 in terms of your testimony. You're testifying
24 that, to the best of your knowledge, it's tanks
25 numbers three and four as they are identified on

1 figure 2A are the two tanks that you believe
2 provide the fuel for Unit Three?

3 A Yes, ma'am, I believe that's correct.

4 Q Okay. And to the extent that you have
5 access to this information or can refer us to
6 someone else at Mirant who could help us who will
7 be a future witness, can you clarify for the
8 record, in the event that the natural gas pipeline
9 becomes disrupted or is disabled for some reason,
10 how long will it take to be able to convert Unit
11 Three to dual fuel?

12 A No, ma'am, I'd have to refer you to
13 someone in our operations and maintenance group.
14 That's an operating question.

15 WITNESS ZAMBITO: I can comment to that.
16 It will take probably several days in that those
17 fuel tanks, the fuel will have to be heated to the
18 point of being able to pump it. And also, the
19 equipment on Potrero Three, there are some
20 conversions that need to be made to be able to
21 burn the fuel.

22 So I would say -- I can't be certain on
23 it, but I would guess that it would take several
24 days.

25 MS. MINOR: That's the extent of my

1 questions. I have a witness, Ed Smeloff, who has
2 arrived, and we have a question. I'm wondering if
3 we could go off the record for a minute so I could
4 discuss it with you?

5 PRESIDING COMMISSIONER PERNELL: Can we
6 go off the record.

7 (Brief recess.)

8 HEARING OFFICER VALKOSKY: Did you have
9 any further cross-examination? Ms. Minor, did you
10 have any further cross?

11 MS. MINOR: No, we are finished with
12 cross, thank you.

13 MR. ROSTOV: Good morning. I have a
14 couple more questions about the Unit Three
15 retrofit, and I'm not sure, maybe Ms. Zambito
16 might know as well.

17 CROSS-EXAMINATION

18 BY MR. ROSTOV:

19 Q Do you know when the Unit Three retrofit
20 is scheduled to occur, for Mr. Stone?

21 MR. CARROLL: If I could interrupt, I'm
22 going to allow these witnesses to answer these
23 questions to the best that they can, but I want to
24 make it clear that I'm not waiving any right to
25 object to further questions regarding Unit Three

1 on the basis of relevancy.

2 So I'm going to allow that these
3 witnesses, again, our view is that Unit Three is
4 not for the proceedings in front of the
5 Commission, and I'm going to allow them to answer
6 the questions, we want to be helpful, but I want
7 to preserve my right to make objections later on
8 the grounds of relevancy.

9 HEARING OFFICER VALKOSKY: The
10 clarification is understood, Mr. Carroll.

11 MR. CARROLL: Thank you.

12 MR. ROSTOV: If I may make one point on
13 the relevancy issue, in the FSA on page 3-2 the
14 CEC staff discuss the Unit Three retrofit, and
15 it's also discussed in the AFC, so I think it's
16 very relevant.

17 HEARING OFFICER VALKOSKY: Well, just
18 ask the question. We understand the ground rules.

19 MR. ROSTOV: Okay.

20 BY MR. ROSTOV:

21 Q So do you know when the Unit Three
22 retrofit is scheduled?

23 A I'm assuming that we're talking about
24 the selective catalytic reduction retrofit to the
25 existing Unit Three; is that correct?

1 Q Yes, that's correct.

2 A That was originally scheduled for
3 January of 2004. We are currently studying the
4 schedule, as I understand it, to try and move that
5 back in to 2003. We're struggling somewhat with
6 that. Normally you would like an 18-month window
7 from the time that you commit to an SCR before you
8 begin your scheduled outage, so, as you can tell,
9 we're tight up against it.

10 So we're working furiously now to
11 establish a better schedule and one that may bring
12 the SCR on earlier than January of 2004. Again,
13 the project manager, Mr. Harrer may be able to
14 help you better with that too.

15 WITNESS ZAMBITO: May I add a comment?

16 Part of the -- We have to work very
17 closely with the ISO in order to get the SCR
18 installed because of the availability of Unit
19 Three. So part of the reason we're evaluating, I
20 believe part of the reason we're evaluating the
21 possibility of 2003 is because of discussions with
22 the ISO as to what window of time we would be able
23 to have that unit off line to make those changes.

24 BY MR. ROSTOV:

25 Q As I understand the AFC, it was

1 originally proposed that the construction of Unit
2 Seven would occur first and then the SCR retrofit
3 of Unit Three would occur second. If you push
4 Unit Three SCR retrofit into 2003, will that
5 conflict with the construction of Unit Seven? In
6 other words, can you do both at the same time?

7 A Part of the reason for moving the SCR
8 now forward is that it appears that construction,
9 if it occurs on Unit Seven, will be much later
10 than when we originally hoped.

11 Construction simultaneously of the new
12 unit and the SCR is certainly undesirable,
13 particularly understanding the confined spaces at
14 the existing plant. Is it possible? I'm not
15 sure.

16 Q So you would prefer to now construct the
17 SCR retrofit before constructing Unit Seven?

18 A We would prefer to construct them at
19 different time frames.

20 Q Okay.

21 MR. ROSTOV: I want to move on to a
22 different topic. This is what Mr. Valkosky was
23 asking about earlier in terms of hours of
24 operation, and I'll try not to duplicate.

25 BY MR. ROSTOV:

1 Q First, I'm just trying to understand,
2 full load plus duct burners, using the operation
3 of full load plus duct burners means operating at
4 peak output; is that correct?

5 A Peak would be with the burners in
6 operation and power augmentation.

7 Q Okay, and that is estimated to be 650
8 megawatts; is that correct?

9 A With the unit at full load, supplemental
10 firing and power aug, we project that we could get
11 around 615 megawatts, yes.

12 Q And in your testimony on paragraph 19,
13 you now say that the duct burners will operate at
14 2200 hours per year; does that mean operating at
15 peak capacity then, the 615 megawatts?

16 A I believe the 2200 hours includes the
17 supplemental firing and power augmentation. If I
18 may, let me clarify. The unit will have the
19 capability of being at full load -- There are some
20 terminology clarifications I'd like to make --
21 full load is just without duct burners in
22 operation. And then there's another mode of
23 operation where you add your duct burners
24 operating, and then peak would be duct burners and
25 power augmentation, when you actually are sending

1 steam to your gas turbines and get more megawatts.

2 The power augmentation requires
3 supplemental firing, so your duct burners are in
4 operation at that time as well. And I believe the
5 2200 hours includes both supplemental firing and
6 power aug, which would then get you the 615
7 megawatts. If you do not do power aug, however,
8 and your burners are in operation, you're at
9 somewhat less than the 615 megawatts of power.

10 Q Okay. So just to make sure I
11 understand, you can operate the duct burners
12 without power augmentation, but it would still
13 increase above the 540 if you're just operating
14 the duct burners.

15 A Could you repeat that?

16 Q Can you just operate the duct burners
17 plus the full load without the power augmentation
18 you were just discussing?

19 A Yes, that's correct.

20 Q Okay, and that would be somewhere
21 between 540 and 615.

22 A Yes.

23 Q Okay.

24 MR. ROSTOV: I apologize to the
25 Committee, I thought the exhibits would be

1 presented. So I only have one copy of this table
2 I was going to show the witness.

3 BY MR. ROSTOV:

4 Q It's a data request you responded to,
5 data request number three. I'm not sure if you
6 have the Communities for a Better Environment data
7 request; do you have that? I have a copy, an
8 extra copy, so I could maybe provide --

9 HEARING OFFICER VALKOSKY: Has that --
10 That's been marked as an exhibit?

11 MR. ROSTOV: Yes, it's marked as Exhibit
12 Ten. So it would be page two.

13 WITNESS ZAMBITO: Which exhibit is it,
14 again?

15 MR. CARROLL: I'm sorry, what was the
16 number of the data request?

17 MR. ROSTOV: It's data request number
18 three, page two, your response to Communities for
19 a Better Environment data request. Again, I have
20 one, I can show you the table, if you don't have
21 one.

22 HEARING OFFICER VALKOSKY: Yes, make
23 sure it's available to the Applicant.

24 WITNESS ZAMBITO: Data request three,
25 you said?

1 MR. ROSTOV: Yes.

2 WITNESS ZAMBITO: Okay.

3 MR. CARROLL: I'm sorry, hold on just a
4 moment, I'm still --

5 MR. ROSTOV: Sure.

6 WITNESS ZAMBITO: I saw it this morning
7 and now I'm trying to find it again.

8 MR. CARROLL: I'm sorry, I was looking
9 at the wrong binder, it's in tab eight.

10 MR. ROSTOV: Tab eight of the binder?
11 There we go.

12 WITNESS ZAMBITO: Okay, thank you.

13 MR. ROSTOV: I'm giving the witness a
14 copy.

15 PRESIDING COMMISSIONER PERNELL:
16 Mr. Carroll, do you have that?

17 MR. CARROLL: Yes, I do, thank you.

18 BY MR. ROSTOV:

19 Q Here is a table in your data response,
20 it's called table 24-1. And it's entitled Potrero
21 Unit Seven assumed annual hours of operation for
22 air quality impact modeling. And there's, the
23 fourth row down it says full load plus duct
24 burners. And then the hours of operation are
25 1,594 hours.

1 Is that number the same as the 2200
2 number that you're saying? Is that number -- Are
3 you now saying that the Unit Seven will operate
4 2200 hours annually and not 1,594 with full load
5 plus duct burners?

6 A The accurate numbers are in my
7 declaration or testimony, the annual hours of
8 operation of each of the duct burners of Potrero
9 Seven will be reduced from 7,090 to 2200.

10 Q Okay. So I'm to understand from this
11 table that you only did air modeling on full load
12 plus duct burners for 1,594 hours, and not 2200
13 hours; is that correct?

14 A I believe we did it --

15 MR. CARROLL: Well, a point of
16 clarification. The response to question 19 in the
17 prepared testimony refers to each of the duct
18 burners, whereas the table -- I just want to make
19 sure that we've got consistency between the
20 response and the table.

21 HEARING OFFICER VALKOSKY: Do you need a
22 recess, Mr. Carroll?

23 MR. CARROLL: I think a recess would be
24 helpful. We're trying to reconcile the
25 information in the response to the data request

1 and the information in the prepared testimony.

2 HEARING OFFICER VALKOSKY: Okay. We'll
3 recess for ten minutes and reconvene at 11:35.

4 MR. CARROLL: Thank you.

5 (Brief recess.)

6 PRESIDING COMMISSIONER PERNELL: We're
7 back on the record. Mr. Valkosky?

8 HEARING OFFICER VALKOSKY: Thank you,
9 Commissioner.

10 Mr. Carroll?

11 MR. CARROLL: Yes. We are prepared to
12 answer the question. I wanted to make just a
13 preliminary clarification. It may have been
14 premature, frankly, to raise this issue today,
15 because the reduction in the hours of operation is
16 really an emission reduction strategy, and our air
17 quality experts have done most of the analysis.

18 And included in Ms. Zambito's testimony
19 today, because the hours do appear in the project
20 description section of the AFC and since we now
21 know that we plan to reduce them, I didn't want
22 her to testify that section two was correct,
23 knowing that it wasn't. So that's why we raised
24 the issue today.

25 When we get to air quality, we'll be

1 prepared to discuss it in more detail, but having
2 said all that Ms. Zambito was able to get the air
3 quality expert on the telephone. He clarified
4 things for her and she's prepared to answer the
5 question now.

6 WITNESS ZAMBITO: I apologize for that.

7 On the table, 24-1, that was referred to
8 earlier, the hours of operation were actually
9 transposed and need to be accurate. So I'm going
10 to read the correct numbers.

11 The full load operation is 1594 hours.
12 The full load plus duct burners is 7,090, and
13 that's the way the air modeling was done.

14 PRESIDING COMMISSIONER PERNELL: One
15 second. Is this the Committee's document?

16 MR. ROSTOV: That's my extra copy, but
17 the Committee can use it.

18 PRESIDING COMMISSIONER PERNELL: All
19 right. Then I need to write it on here.

20 Okay, I'm sorry, would you repeat that?
21 I wasn't ready.

22 WITNESS ZAMBITO: No problem.

23 Table 24-1 on assumed annual hours of
24 operation for air quality impact modeling, startup
25 mode remains at 68 hours, shutdown mode is eight

1 hours. Full load operation is 1,594 hours. Full
2 load plus duct burners is 7,090, for a total of
3 8,760 hours.

4 HEARING OFFICER VALKOSKY: Okay, and for
5 clarification, would you now read the modified
6 figure.

7 WITNESS ZAMBITO: The modified figure,
8 as noted in my testimony, the full load operation
9 would be 5,246 hours; full load plus duct burners
10 is 2200 hours, for a total of 7,446 hours of
11 operation.

12 HEARING OFFICER VALKOSKY: Okay.

13 Mr. Rostov?

14 BY MR. ROSTOV:

15 Q So, if I understand, originally you were
16 proposing to operate at full load plus duct
17 burners for seven-eighths of the time, or 7,000
18 over 8,760?

19 A That's correct. There was a lot of duct
20 burner operation anticipated when we originally
21 filed the application.

22 Q What has changed?

23 A In our market analysis and looking at
24 the demands of when that extra megawatt of power
25 would be needed has just been reduced.

1 MR. ROSTOV: One more question. So
2 these numbers are going to be -- Maybe this is for
3 Mr. Carroll again. So these numbers that were
4 just announced for the record are the numbers that
5 will be put in the air permit in terms of for air
6 emission purposes?

7 MR. CARROLL: I think the answer to your
8 question is yes. You mean what were referred to
9 as the revised numbers?

10 MR. ROSTOV: Right, as the revised
11 numbers.

12 MR. CARROLL: That is correct.

13 Just to clarify, the intent is that the
14 analysis has been completed. We're fine-tuning
15 the submittal, but within a week or so we expect
16 to submit to both the CEC and the Bay Area Air
17 Quality Management District a request to reduce
18 the hours of operation and the emissions to the
19 new levels that were just discussed. And that, of
20 course, would be docketed with the Energy
21 Commission and served on the parties and everyone
22 will have that well in advance of getting to the
23 topic of air quality.

24 So by the time we get there, it should
25 be clear to everybody.

1 MR. ROSTOV: I'm going to move on to a
2 new topic, and I understand that the person who
3 you may want to answer this will be here tomorrow.
4 So if these are not perfect for today, I'd just
5 like to reserve some cross-examination, which I
6 didn't have for tomorrow. But maybe I could ask
7 the first question or two and see.

8 I was just curious about this change in
9 project description related to the connection to
10 the substations. I was wondering if somebody, in
11 plain English, could explain what the actual
12 change was. The CEC in their testimony for
13 tomorrow, CEC staff said there was an actual
14 project description change. And I was wondering
15 if the Applicant could just provide a little light
16 on the subject.

17 MR. CARROLL: The answer to your
18 question is that Mr. Jenkins, the witness
19 tomorrow, is the individual that could do that.
20 But I would point out that if you don't want to
21 wait until tomorrow, there is a plain English
22 explanation in his response to question 18 of his
23 prepared testimony.

24 MR. ROSTOV: I would like to reserve
25 some cross for tomorrow, then, on that subject.

1 HEARING OFFICER VALKOSKY: Well, that's
2 understood. That will certainly be fair to you
3 tomorrow.

4 MR. ROSTOV: And maybe one other
5 question on this.

6 BY MR. ROSTOV:

7 Q Did Mirant amend its application to
8 reflect this change, its AFC?

9 MR. CARROLL: I don't know if there was
10 any -- I'll have to object. I don't know if there
11 was a formal amendment that was submitted or not.
12 I believe that based on the testimony, the
13 supplemental testimony filed by the Energy
14 Commission that there was not, because they seem
15 to have been caught unaware of the change.

16 So it may be that there was, obviously,
17 extensive discussion with PG&E and the Cal ISO,
18 but it's also possible that there was not a formal
19 amendment submitted to the Energy Commission
20 reflecting this change.

21 MR. ROSTOV: Okay. I'll move on to
22 another topic, and this is for Ms. Zambito.

23 BY MR. ROSTOV:

24 Q It has to do with the use of urea
25 pellets versus ammonia. In your responses to data

1 requests from Communities for a Better Environment
2 they were completed over a year ago, in April
3 2001, and in response to CBE data request question
4 number seven, you stated that Mirant was using a
5 urea-ammonia process on Unit One of its Canal
6 plant in Sandwich, Massachusetts. That plant has
7 been operational since the summer of 2000.

8 Can you update us on the system's
9 performance at that plant?

10 A Yes. The Canal unit has been using the
11 ammonia on demand system, and we have had some
12 technical and operational issues that we have been
13 working through during the last year of operation.

14 I would like to point out, however, that
15 the Canal plant is of a different design. It is
16 an oil-fired conventional-type unit that is base-
17 loaded, which means it is generally in operation.
18 The Potrero Seven unit is a combined-cycle two-by-
19 one, which is vastly different than the oil-fired
20 Canal station.

21 Some of the concerns that we've had with
22 the AOD is being able to have adequate response
23 time to stay in compliance with the combined-cycle
24 unit, and the AOD system, to my knowledge, is not
25 proven for a combined-cycle unit of the size of

1 the Potrero Seven application.

2 Q Well, I guess my first question is I'm
3 not sure why the different fuel would make a
4 difference. The ammonia essentially works into an
5 SCR system, and the SCR system sprays whatever the
6 NOx is, so it seems like it's on the back end. So
7 why does the oil versus gas make a difference?

8 A Well, it's not so much -- It's more of
9 the design of the boiler in the unit. On a
10 conventional unit, your ramp-up time for a unit of
11 that size and design is slower than it would be
12 for a combined-cycle gas turbine. One of the nice
13 things about a combined-cycle with the gas
14 turbines is when the power is needed, there is
15 very little time that you need to ramp the unit up
16 for more power.

17 On a conventional unit, it takes a
18 little longer, and if you're coal or oil, because
19 of the design of the unit itself, ramp-up time is
20 slower; therefore, the control scheme for your SCR
21 is going to be different and your response time is
22 a concern.

23 Q On this, your response time, in the
24 current proposal there is storage tanks for
25 ammonia. But when you use the pellets, you'd have

1 some sort of storage and that would resolve not
2 having some ammonia on facility?

3 A It's my understanding of the ammonia on
4 demand system with the urea pellets, it's just
5 that the ammonia is produced in the process as
6 it's needed to be able to be sprayed to the SCR.
7 And, therefore, the process time necessary as
8 you're ramping up, the megawatt production is very
9 critical to make sure that the AOD system can
10 respond and have it remain in compliance.

11 Q So why didn't Mirant use this system on
12 Unit One in Massachusetts?

13 A Why didn't?

14 Q Yes, why did it? Why --

15 A Oh, why did it?

16 Q Yes.

17 A Mirant looks at new technology and
18 what's available out there to try to be
19 environmentally friendly. With the type of unit
20 that the Canal facility is, because it was going
21 to be primarily base-loaded, and being the
22 conventional unit that it is, with slower ramp-up
23 times, we worked with agencies and others to
24 decide let's go ahead and try it and see how it
25 would work. And the risk that we thought

1 regarding keeping the unit in compliance, we felt
2 we could work around it.

3 I would like to note, however, as a
4 backup, because this is new technology, we do have
5 a backup system designed there, in the event the
6 ammonia on demand system did not operate correctly
7 or we had problems with it, we do have an aqueous
8 ammonia system as a backup.

9 Q Okay. So is Mirant planning on using
10 ammonia on demand anywhere else in the United
11 States at the current time?

12 A At the current time I do not know of
13 plans to put that in anywhere else. We would
14 certainly consider it. As technology proves
15 itself on combined-cycle units or a conventional
16 unit, if we had any new place that we would be
17 needing it, we would certainly consider it.

18 Q Okay. In your data request you also
19 mentioned the AES Huntington Beach generating
20 station units three and four retool as using urea
21 pellets. Do you have any update to your response
22 in that data request?

23 A No, I do not have an update, but I think
24 that particular project is significantly smaller
25 than the Potrero Seven, isn't it?

1 Q I don't know. I don't want to testify
2 either.

3 A I mean, technically we monitor to see
4 what new technology is available out there and
5 look at our, keep our options open. But I think
6 that particular one is smaller. I'm not sure if
7 it's actually started up yet.

8 Q Okay, but you do make a statement that
9 the potential health risk concerns associated with
10 the transport and storage of large quantities of
11 aqueous ammonia could potentially be eliminated by
12 a urea to ammonia system, correct? Do you agree
13 with that? You make that statement in your
14 declaration.

15 A Yes.

16 Q The urea to ammonia system would also
17 reduce the number of truck trips to the plant from
18 a trip once every five days to a truck trip once
19 every 8.7 days; do you agree with that?

20 A Yes.

21 Q Okay. So when you were considering
22 using the ammonia on demand at Unit Seven, these
23 benefits to the community were not major factors;
24 is that correct?

25 A All things were considered as to the

1 technology to be used there. Again, the concern
2 with the ammonia on demand system is primarily the
3 lack of proven technology to operate in a
4 combined-cycle power plant of this size.

5 Q Okay. Did you list the reliability, the
6 system reliability concerns?

7 A The ammonia system?

8 Q For the ammonia on demand.

9 A Again, it's basically in the response
10 time for the ammonia to be produced as you're
11 ramping your unit up from either a cold start or a
12 minimum load up to full load. These gas turbines
13 ramp up very quickly, and we are concerned that
14 the ammonia on demand system, in its newness,
15 can't quite respond to it.

16 I would like to note that we have had --
17 I did have a company come in and talk to us about
18 the AOD system and its controls configuration, and
19 they were not able to satisfactorily answer
20 concerns in this area; in fact, they couldn't
21 answer them at all regarding how fast the system
22 could respond to a ramp-up on the combined-cycle
23 units.

24 Q I think just one more question on this
25 topic. What's the base generation at Unit One?

1 A I can't remember the megawatt load for
2 Canal One.

3 Q Okay. Could we get that sent in or
4 something?

5 A Sure.

6 Q Thank you. I want to move on to a
7 different topic.

8 In the AFC it appears on replacement
9 page 2-26 that Mirant proposes to build an on-site
10 crushing plant for concrete and brick; is this
11 correct?

12 MR. CARROLL: I'm sorry, what was the
13 page reference?

14 MR. ROSTOV: It was replacement page
15 2-26.

16 MR. CARROLL: Which paragraph?

17 MR. ROSTOV: The very bottom, materials
18 hauling and recycling.

19 BY MR. ROSTOV:

20 Q The second sentence states, "The brick
21 debris will be loaded into trucks for
22 transportation off site or for movement onto an
23 on-site concrete crushing plant for recycling as
24 fill material."

25 WITNESS STONE: During initial

1 discussions with the demolition contractor for the
2 station A buildings, rather than haul off large
3 oblique pieces of concrete and brick from the
4 station A buildings, they have proposed to us the
5 use of a contained crushing machine only for the
6 demolition phase of the project.

7 Because we are considering that
8 possibility we have placed that into the record.
9 No final decision has been made with regard to the
10 crusher as yet.

11 MR. ROSTOV: Okay.

12 BY MR. ROSTOV:

13 Q So just to make sure my understanding is
14 correct, Mirant potentially plans to crush bricks
15 to create fill material; is that correct?

16 A We'll have to take a look at the
17 structural stability. I think it's probably more
18 applicable to the concrete as opposed to the
19 brick, but we'd have to look at the structural
20 aspects of it.

21 Q I'm not sure why you need the fill
22 material, can you explain that? For the brick,
23 the crushed brick and concrete?

24 A We may very well have a situation where,
25 due to hazardous materials or whatever, during

1 excavation soil and other things at the existing
2 site would have to be disposed of or handled, and
3 therefore replaced with new or clean material.
4 Interior portions of concrete would qualify in
5 that regard.

6 Also, we may have temporary construction
7 roads or other things and concrete or crushed
8 gravel is desirable for those because of its
9 characteristics.

10 Q Okay. On replacement page 2-51, there
11 is a table that shows the amount of concrete
12 debris and it's the top row, and it says concrete
13 debris demolition, 6,000 to 8,000 cubic yards.
14 Potentially, could 6- to 8,000 cubic yards of
15 concrete be crushed on site at the Potrero site?

16 A My inclination is that it is possible.
17 I'm not sure I understand the question.

18 Q Well, the question -- Well, you've said
19 that you may need the fill for the site, and you
20 also said that you were going to crush concrete
21 debris. And I'm just saying this is the number of
22 the amount of concrete debris there is going to
23 be, so I'm asking would you crush this volume of
24 concrete debris at the site?

25 A It is something that we would consider.

1 Whether we would crush all of it might depend upon
2 need, or it may be better and easier to haul off
3 site if crushed, we can probably cover the trucks
4 better and that like, and better control fugitive
5 dust. So it may be in our best interest to crush
6 it, even if we don't use it on site.

7 Q The second row says brick debris
8 demolition, and it says there is 8,000 to 10,000
9 cubic yards of brick debris. You could also
10 potentially on-site crush 8,000 to 10,000 cubic
11 yards of brick debris; is that correct?

12 A Potentially we could, I believe.

13 Q Okay. I'm going to move on to a
14 different topic. These are in reference to a
15 Communities for a Better Environment data requests
16 numbers four to six relating to the GE-7F
17 turbines. And in data request number four, CBE
18 asked list all occurrences of flashbacks from GE
19 gas turbines in the 7F series installed in the US
20 in the past ten years.

21 The answer was that Mirant was not aware
22 of any flashbacks since 1996. I was wondering
23 where were the flashbacks prior to 1996, in the
24 '90s, from '91 to '96.

25 WITNESS ZAMBITO: The short answer is

1 the nozzle design that GE was experiencing the
2 flashbacks on are a different nozzle design than
3 we, Mirant, are going to be getting on the 7FAs
4 that we've purchased.

5 BY MR. ROSTOV:

6 Q Okay. So there were flashbacks in the
7 past, but you believe that the incidence of
8 flashbacks will be reduced by a flared fuel
9 nozzle; is that correct?

10 A The design of the fuel nozzle that we
11 are getting is different than the fuel nozzle that
12 experienced the flashbacks.

13 Q So why do you think the new fuel nozzle
14 will reduce the incidence of flashbacks?

15 A It's just a different design that GE has
16 used in terms of the physical nature of the design
17 of the nozzle.

18 Q Do you have a more technical answer?

19 A No, I really don't.

20 Q Okay.

21 A It's specific to the nozzle design that
22 GE has, and I don't know of any flashback that has
23 occurred on the GE 7FA 7241 model that GE -- that
24 we are purchasing for our units.

25 Q Okay. Our question number five, data

1 request number five discussed that flashbacks from
2 gas turbines could -- are likely to be sensitive
3 to local conditions. And we asked has a proposed
4 design been used where there are particular
5 climate conditions, including extended periods of
6 high humidity or fog, especially fog, given it's
7 San Francisco.

8 And do you have a response to that
9 answer?

10 A Again, it's a different design. And the
11 7241 7FA that we're purchasing doesn't have a
12 history of flashback.

13 Q Okay. In your response to that data
14 request it says GE designs its units to
15 accommodate evaporative coolers and foggers, which
16 provide high humidity environments as a normally
17 expected operating condition.

18 Do you plan to put evaporative coolers
19 on Unit Seven?

20 A Yes, Unit Seven is assumed to have
21 evaporative coolers.

22 Q Do you plan to install foggers as well?

23 A No.

24 Q Why not?

25 A We didn't consider it initially. I

1 don't know why it wasn't.

2 Q Okay. And then the final question on
3 this topic, I just had a question about your
4 design calculations. It's essentially data
5 request number six, but in your response you said
6 please refer to the responses, to CBE data
7 response number four and five, and those would
8 answer that question. So obviously maybe that
9 question, maybe you have a better response.

10 The question is design calculations do
11 not address high humidity conditions that can
12 cause problems for the gas combustion turbine
13 combustion system. Please provide an analysis of
14 how the high humidity at the Potrero location will
15 affect operation of the gas turbines. I think the
16 first question have you performed any such
17 analysis?

18 A When we do our market analysis, we take
19 into consideration the ambient conditions, because
20 that's very critical on gas turbine performance in
21 terms of heat rate and megawatt output. So in
22 that respect we did look at ambient conditions
23 with higher humidity at different humidity levels,
24 as it relates to ambient conditions for
25 performance of the unit.

1 Q Okay. So are those included in your
2 design calculations or presented in the AFC?

3 A It was presented in terms of the
4 performance of the unit, and water balance type
5 information because that's all inherent to the
6 heat balance of the cycle.

7 Q Okay. I just have a few more questions.

8 I think in CBE data request number 22
9 these questions refer to the waste catalyst. We
10 asked what other metals may be in the catalyst
11 waste, and you listed some metals such as vanadium
12 pentoxide, alumina, titanium dioxide, but at the
13 end of that, you also said platinum nickel --
14 somewhere else in this answer you also said there
15 would be other trace metals, and I was just
16 wondering if you knew what those trace metals
17 were.

18 A No, I don't have that information today.

19 Q Okay. And could the vanadium, could
20 that be released into the wastewater? You say
21 there is no exposure through air pathway, but I
22 was wondering if vanadium can be released into the
23 wastewater.

24 Q No, I don't believe so. The operation
25 of the SCR is primarily with fewer flue gases

1 crossing the SCR, and through chemical reaction of
2 the vanadium pentoxide with the flue gas, the
3 catalyst will then be expended at some point in
4 time and then disposed of.

5 Q Okay. Just a couple more questions.
6 The AFC on page 236 says that once operational the
7 plant will be available for 40 years except for
8 the occasional unexpected plant trip.

9 In your experience, how often do
10 unexpected trips happen on an annual average at
11 this type of facility?

12 A We'd like them to never happen, but
13 that's unreasonable given it's a mechanical piece
14 of equipment. Our availability list is noted in
15 our application. Typically, I can't remember if
16 we had actually put in 90 to 95 percent
17 availability, if I'm not mistaken?

18 Q You put in 92 to 95.

19 A Ninety-two to 95? That's assuming that
20 you have a very good maintenance program, which we
21 do, and trying to keep that plant as available as
22 possible. And also with the design of the
23 facility, with redundancy in critical areas, we
24 expect to get an availability of the 92 to 94
25 percent.

1 Q But that's changed now since before you
2 were saying that the plant will only be operating
3 85 percent of the time, right? So would it be 92
4 to 95 percent of the operation at -- Sorry, let me
5 start over.

6 Earlier today you announced that the
7 plant is only going to operate 85 percent of the
8 time. So is that availability, 92 to 95 percent,
9 applied to that, for lack of a better, that 85
10 percent?

11 A Actually, they're independent. The way
12 you assume your availability or you calculate your
13 availability is based on the 8,760 hours of the
14 year that you would like your unit to be available
15 to you, and then you take away your planned
16 maintenance that is required on the unit and
17 basically you come up with the 92 to -- and some
18 other -- well, it's strictly maintenance
19 requirements, I guess. And you come up with the
20 92 to 94 percent.

21 The hours of operation is basically
22 predicted based on analysis that we do in terms of
23 what we think the megawatt output would be
24 required for use.

25 Q Okay. And one more question, what could

1 cause unexpected plant trips, if you could just
2 list --

3 A Oh, it could be a number of things.
4 With the mechanical complexity of a mechanical
5 machine like a power plant, it could just be a
6 number of things.

7 Q Okay. I just have a couple of questions
8 for the CEC staff and then I'll be back, but thank
9 you.

10 HEARING OFFICER VALKOSKY: And that will
11 be appropriate when they --

12 MR. ROSTOV: Okay, sorry.

13 HEARING OFFICER VALKOSKY: -- after
14 they've testified. Okay, no more cross for this
15 panel?

16 MR. ROSTOV: No.

17 MR. WESTERFIELD: Yes, Mr. Valkosky, the
18 staff really has sort of a procedural question
19 perhaps of the panel. Indeed, the CEC staff was
20 caught a bit unawares of the change in the
21 interconnection I guess configuration that Mirant
22 has recently made, as far as we can tell, and we
23 think it does affect the project description
24 somewhat, particularly with reference to the
25 switch yard, and what portion of underground

1 construction may indeed be part of the project.

2 We are happy to deal with that issue
3 tomorrow during the TSE testimony or we can maybe
4 ask a few questions about it now, whatever is most
5 convenient.

6 HEARING OFFICER VALKOSKY: Well,
7 certainly it's fair game tomorrow. We've given
8 everyone latitude to explore the knowledge of the
9 panel. If you've got just a couple of questions,
10 go ahead.

11 MR. WESTERFIELD: Sure, we just have a
12 few.

13 CROSS-EXAMINATION

14 BY MR. WESTERFIELD:

15 Q To anyone on the panel, because of the
16 change in the configuration for the
17 interconnection of Unit Seven to the grid, has any
18 part of the project as described in the AFC been
19 dropped or deleted?

20 WITNESS ZAMBITO: We're going to have to
21 defer that to Mr. Jenkins tomorrow.

22 MR. WESTERFIELD: Okay.

23 BY MR. WESTERFIELD:

24 Q So as far as you know, do you know or do
25 you not know whether the switch yard is currently

1 part of the project?

2 A Again, Mr. Jenkins is going to have to
3 respond to those details.

4 Q Okay. And also, do you know whether any
5 part of the underground construction of the cable
6 connecting the Potrero substation with the
7 Hunter's Point substation is no longer part of the
8 project?

9 WITNESS STONE: I believe, subject to
10 Robert, that we do intend to include all of it as
11 part of the project. It was just that there was
12 an opportunity to piggyback on the Hetch Hetchy's
13 effort rather than run in effect a parallel,
14 running two transmission conduits through the same
15 area, discussions or negotiations with the City
16 and Hetch Hetchy were such that it looked as if
17 there would be one less boring under Islais Creek
18 and, you know, other issues there. So it seemed
19 like a good way to combine that.

20 But as far as the details and how that
21 evolved and everything, our high voltage
22 transmission specialists handled that, and that
23 would be Mr. Jenkins.

24 MR. WESTERFIELD: That's all we have.

25 HEARING OFFICER VALKOSKY: Redirect?

1 MR. CARROLL: No redirect.

2 HEARING OFFICER VALKOSKY: Any further
3 questions for the panel?

4 Seeing none, thank you.

5 (The witnesses were excused.)

6 HEARING OFFICER VALKOSKY: Mr. Carroll,
7 I heard Mr. Harrer's name mentioned a couple of
8 times. Are you intending to provide him as a
9 witness in the future?

10 MR. CARROLL: Yes, I did the same thing
11 that apparently you did, which was to look forward
12 on the schedule. And although we had initially
13 identified him only in the topic area of project
14 description, he's obviously not here today. Given
15 the questions that were asked and our indication
16 that they need to be answered by Mr. Harrer, we
17 will add him in to another topic area and make him
18 available for those questions.

19 HEARING OFFICER VALKOSKY: Okay.

20 MR. CARROLL: So the answer is yes.

21 HEARING OFFICER VALKOSKY: And you will
22 formally notify in your prefiling submittal when
23 you do?

24 MR. CARROLL: Yes. At the time that we
25 file for, and I'll have to figure out which topic

1 area is most appropriate, but at the time that we
2 file for that we will include prepared testimony
3 for Mr. Harrer.

4 HEARING OFFICER VALKOSKY: Okay. As
5 long as we'll see Mr. Harrer.

6 Okay. Public comment on the topic of
7 project description? I've got a card from Mike
8 Thomas?

9 MR. WESTERFIELD: Mr. Valkosky?

10 HEARING OFFICER VALKOSKY: I'm sorry?

11 MR. WESTERFIELD: The staff does have
12 witnesses on this subject.

13 HEARING OFFICER VALKOSKY: I'm sorry,
14 I'm sorry. Mr. Thomas, am I bad, excuse me.

15 Thank you, Mr. Westerfield.

16 MR. WESTERFIELD: At this time the CEC
17 would like to call Mark Pryor and Kevin Kennedy.

18 HEARING OFFICER VALKOSKY: Swear in the
19 witnesses, please.

20 THE REPORTER: Raise your right hands.
21 Whereupon,

22 MARK PRYOR and KEVIN KENNEDY
23 Were called as witnesses herein and, after first
24 being duly sworn, were examined and testified as
25 follows:

1 MR. WESTERFIELD: We are presenting both
2 Mr. Pryor and Mr. Kennedy as a panel, but I would
3 like to basically either introduce them or ask --
4 I'd just like to briefly ask them about their
5 qualifications before any sort of general
6 questions of them as a panel.

7 HEARING OFFICER VALKOSKY: Please.

8 DIRECT EXAMINATION

9 BY MR. WESTERFIELD:

10 Q First, Mr. Pryor, could you tell me what
11 your title is and role in the Potrero Seven
12 project.

13 WITNESS PRYOR: I'm a planner II with
14 the siting division of the California Energy
15 Commission. I'm the project manager assigned to
16 the Mirant Potrero case.

17 BY MR. WESTERFIELD:

18 Q And could you briefly summarize your
19 qualifications to fulfill that role.

20 A I've been a siting project manager for
21 almost five years.

22 MR. WESTERFIELD: Thank you.

23 BY MR. WESTERFIELD:

24 Q And Mr. Kennedy, could you tell us,
25 please, what your title is and what your role in

1 the project has been.

2 WITNESS KENNEDY: Yes. My title is
3 currently siting program manager in the siting
4 division at the Energy Commission. I have been
5 working in the Energy Commission for approximately
6 two years. During the bulk of the time of the
7 preparation for the final staff assessment I was a
8 project manager within the siting division and
9 assisted Mark Pryor in a variety of capacities,
10 including acting as project manager during a
11 portion of the fall of 2001. And so was an active
12 participant in the preparation of the final staff
13 assessment. I'm currently a supervisor for
14 project managers, including Mark.

15 BY MR. WESTERFIELD:

16 Q Great, and could you briefly summarize
17 your qualifications, please.

18 A Yes. As I noted, I have been working in
19 the siting division for approximately two years.
20 Prior to that I have approximately 15 years
21 experience in consulting and academia and
22 environmental policy, including a PhD from the
23 Energy and Resources group at the University of
24 California at Berkeley.

25 BY MR. WESTERFIELD:

1 Q And, Mr. Pryor, I neglected to ask you,
2 did you participate in preparing the project
3 description chapter of the final staff assessment
4 that is now part of Exhibit Three?

5 A Yes, I did.

6 Q And as a result are you familiar with
7 its contents?

8 A Yes, I am.

9 Q And could you provide the Committee now
10 with a brief summary of what's in it?

11 A The Applicant has already provided a
12 pretty good summary; therefore, I'd like to just
13 touch on those issues that I believe were not
14 brought up and acknowledged. One, the Applicant's
15 witnesses have provided a change of \$400 million
16 for the project cost. My testimony is \$260 to
17 \$320 million, which was based on the original AFC.

18 I do have a change. In addition to
19 power plant cooling, which is on page 3-2 of
20 Exhibit -- of the FSA, Exhibit Three I believe,
21 under power plant cooling after the first sentence
22 I would like to insert, "In addition to the
23 circulating cooling water, another 4,000 GPM will
24 be required for screen wash in the water intake
25 system for a total of 162,000 gallons per minute."

1 The project will, as we've discussed a
2 little prior to this, involve the demolition of
3 existing structures, the station A complex, which
4 is the turbine room, pump house, and gate house,
5 and the compressor house. Dr. Kennedy will
6 address the transmission.

7 Q In the FSA staff had included the
8 underground connection of the transmission line
9 down to the Hunter's Point substation as part of
10 the project in our analysis and had described the
11 project as including the interconnection to both
12 the Potrero substation and the Hunter's Point
13 substation as the basic transmission connection.

14 As we have heard, there are some changes
15 in the transmission connection. We will get into
16 those in more detail tomorrow, which may result in
17 some modifications to exactly how we describe that
18 aspect of the project, but we'll defer until
19 tomorrow on that.

20 Q All right. Sort of by way of summary,
21 are there any other corrections, additions or
22 deletions that either of you have to the testimony
23 that you prepared as part of the final staff
24 assessment?

25 WITNESS PRYOR: No.

1 WITNESS KENNEDY: No.

2 MR. WESTERFIELD: That's all staff has
3 on direct.

4 HEARING OFFICER VALKOSKY: Mr. Carroll?

5 MR. CARROLL: No cross-examination.

6 HEARING OFFICER VALKOSKY: Ms. Minor?

7 MS. MINOR: No cross-examination for the
8 staff.

9 MR. ROSTOV: Okay. I just have very few
10 questions.

11 CROSS-EXAMINATION

12 BY MR. ROSTOV:

13 Q In the staff's analysis, did the CEC
14 staff consider the use of urea pellets or ammonia
15 on demand system rather than -- in its
16 environmental analysis rather than the aqueous
17 ammonia proposed by the Applicant?

18 WITNESS PRYOR: As part of the project
19 description, it is unknown. I would defer that
20 to -- It's either in the alternatives section or
21 in the hazardous materials section.

22 MR. ROSTOV: Okay. I would just like --
23 If I didn't sign up for cross, I'd just like to be
24 able to ask that question at that time.

25 BY MR. ROSTOV:

1 Q Did the staff consider the environmental
2 impacts of concrete and brick crushing on site?

3 A That would be a question for the air
4 quality section; however, I believe that was
5 contained on page 5.1-11 under construction
6 activities of the air quality section.

7 Q Okay. Just two more questions. Is the
8 local system effects chapter a standard chapter
9 for a final staff assessment?

10 A This is the first instance that I'm
11 aware of that I have participated in that has had
12 one.

13 Q So why was the local system effects
14 chapter added?

15 HEARING OFFICER VALKOSKY: While
16 Mr. Pryor is collecting his --

17 PRESIDING COMMISSIONER PERNELL: Are we
18 off the record?

19 HEARING OFFICER VALKOSKY: No. Do you
20 want to go off the record?

21 PRESIDING COMMISSIONER PERNELL: Why
22 don't we go off the record for a minute.

23 (Brief recess.)

24 PRESIDING COMMISSIONER PERNELL: Okay.
25 We're back on the record.

1 WITNESS KENNEDY: This is Kevin Kennedy.

2 The basic reason for including the local system
3 effects in this project currently is because it is
4 important in the Energy Commission's analysis to
5 understand both the benefits and potential harmful
6 impacts, and there is a potential that, in terms
7 of reliability and the particular aspects of the
8 electrical grid in San Francisco that this project
9 could have very particular benefits that would be
10 best analyzed in a local system effects study.

11 That was the primary reason for
12 including that is examining those sorts of issues.

13 BY MR. ROSTOV:

14 Q So just one followup. Did you just look
15 at benefits or did you also look at the negative
16 problems related to reliability?

17 A A more detailed answer will be provided
18 when we get to the local system effects portion of
19 the testimony, but certainly the purpose of the
20 analysis was to examine what the effects are, both
21 in terms of any positive and negative impacts that
22 the project would have on the local system.

23 Q Okay.

24 MR. ROSTOV: I'm done.

25 HEARING OFFICER VALKOSKY: For the

1 record, Mr. Rostov, there was at least one other
2 case with which I am familiar that had a local
3 systems effects section, and that's the Metcalf
4 case.

5 MR. ROSTOV: Okay, thank you.

6 HEARING OFFICER VALKOSKY: There
7 certainly may have been others, but I know Metcalf
8 had it.

9 Any other questions? SAEJ, any
10 questions?

11 MS. KEEVER: No questions.

12 HEARING OFFICER VALKOSKY: Any redirect?

13 MR. WESTERFIELD: No redirect, thank
14 you, but we would like to move the project
15 description portion of Exhibit Three into the
16 record, please.

17 HEARING OFFICER VALKOSKY: How about
18 Exhibit 21A, Mr. Kennedy's declaration and resume?

19 MR. WESTERFIELD: Yes, we would like to
20 move that in as well.

21 HEARING OFFICER VALKOSKY: Any objection
22 to those two exhibits?

23 Seeing none, they're admitted.

24 Off the record for a second.

25 (Brief recess.)

1 HEARING OFFICER VALKOSKY: Back on the
2 record.

3 Anything else for the witnesses on
4 project description?

5 Now, public comment on project
6 description, Mr. Thomas?

7 SPEAKER THOMAS: Again, my name is Mike
8 Thomas with Communities for a Better Environment
9 and also a resident of Potrero Hill, where this
10 proposed project is proposed to be built.

11 Again, I just have brief comments on the
12 project description. It is our belief, not only
13 Communities for a Better Environment but residents
14 in Southeast San Francisco and I believe for the
15 most part San Francisco that this is the wrong
16 project, the wrong location, and there is a better
17 way of dealing with energy issues in San
18 Francisco.

19 Specifically around the wrong project
20 aspect, again, this is a 40-year project with
21 estimations of 110 tons of dust and soot and this
22 is a major concern. Two out of ten children in
23 the six elementary schools in Bayview Hunter's
24 Point have asthma. This is a Department of Public
25 Health survey and report that was recently issued.

1 Also, 300 tons of smog-producing ingredients would
2 be generated from this facility from this proposed
3 unit.

4 A third of the Bay water from the Bay
5 bridge down to San Jose would be running through
6 this once-through cooling system. It's estimated
7 that a half a billion gallons of Bay water would
8 run through that facility each year. Five hundred
9 million fish larvae each year again estimated that
10 would be killed, and then 14 species would be in
11 jeopardy.

12 Another reason why this is a wrong
13 project is the jobs issue. Southeast San
14 Francisco has not guarantees that the jobs from
15 the construction or operation of the facility
16 would actually go to residents. They would be
17 competing against employees from the nine Bay Area
18 counties for the positions at this facility.

19 And then finally, the reason why it's a
20 wrong project, as the City and County of San
21 Francisco legislative analyst has concluded, this
22 would be the largest facility in the State of
23 California near a dense population. The wrong
24 location, there's over a thousand schoolchildren
25 that go to school within a mile and a mile and a

1 half of this facility. Over 80 percent of those
2 children are children of color, and over 80
3 percent of those children receive a free lunch
4 program.

5 There are over 100,000 people that would
6 live, that live next to this facility. That's
7 within two miles. And there is a better way.
8 Communities for a Better Environment and various
9 local organizations have been looking at energy
10 needs and possible ways to deal with San
11 Francisco's potential future needs, and I will be
12 submitting our community energy plan that includes
13 everything from load shifting to demand reduction
14 to renewables to cogeneration to new imports. And
15 in our proposal you can actually close down
16 Hunter's Point and you don't need the proposed
17 Unit Seven.

18 And then finally, I'd like to also
19 submit 200 postcards from residents in San
20 Francisco asking the California Energy Commission
21 again to deny this application that Mirant is
22 proposing to build in Potrero Hill. Thank you
23 very much.

24 HEARING OFFICER VALKOSKY: Thank you,
25 sir.

1 PRESIDING COMMISSIONER PERNELL: Thank
2 you.

3 HEARING OFFICER VALKOSKY: If you could
4 provide Ms. Mendonca with the postcards, she'll
5 see that they're docketed.

6 Any additional public comment?

7 We'll close the topic of project
8 description.

9 The final item on the agenda for today
10 is traffic and transportation. Mr. Carroll?

11 MR. CARROLL: The Applicant calls
12 Mr. Paul Menaker.

13 HEARING OFFICER VALKOSKY: Would you
14 swear in the witness, please.

15 THE REPORTER: Would you raise your
16 right hand.
17 Whereupon,

18 PAUL MENAKER
19 Was called as a witness herein and, after first
20 being duly sworn, was examined and testified as
21 follows:

22 MR. CARROLL: Thank you. Before
23 commencing with Mr. Menaker, I would like to make
24 one clarification regarding the scope of his
25 testimony as it relates to the transport of

1 aqueous ammonia to the site.

2 Mr. Menaker has not conducted an
3 analysis of the risks of an accident involving
4 trucks transporting aqueous ammonia and he's not
5 testifying to those matters today. Such an
6 analysis has been completed and that will be
7 presented under the topic of hazardous materials
8 at a later time.

9 Mr. Menaker's firm did generate some of
10 the raw traffic data that was used in that
11 analysis, so cross-examination as to the raw data
12 that you see in the documents that he is
13 sponsoring today would be appropriate, but I just
14 wanted to point out to the committee and to
15 everyone else in the room that in terms of the
16 risk analysis associated with transport of aqueous
17 ammonia, that will be dealt with by our hazardous
18 materials expert.

19 DIRECT EXAMINATION

20 BY MR. CARROLL:

21 Q Could you please state your name and
22 title for the record.

23 A Dr. Paul Menaker, senior vice president,
24 Korve Engineering.

25 Q And are you the same Paul Menaker that

1 submitted prepared testimony in this proceeding
2 which is now a portion of what's been labeled as
3 Exhibit 2A?

4 A Yes.

5 Q And if I were to ask you the questions
6 contained in that material today under oath, would
7 your answers be the same?

8 A Yes.

9 Q And am I correct that there are also a
10 number of exhibits identified in your prepared
11 testimony that you are also sponsoring today?

12 A Yes. I'm also sponsoring one additional
13 exhibit that was not identified in my prepared
14 testimony. It is a one-page letter dated May 6th,
15 2002 from URS Corporation to the Federal Aviation
16 Administration requesting an extension of the no-
17 hazard to the air navigation determination
18 obtained from the FAA in reference to my prepared
19 testimony. This document was docketed and served
20 on May 29th, 2002, after the filing of my prepared
21 testimony.

22 HEARING OFFICER VALKOSKY: We can
23 designate that Exhibit 24.

24 Do you intend to offer that,
25 Mr. Carroll?

1 MR. CARROLL: Yes, we do.

2 HEARING OFFICER VALKOSKY: I'll mark it
3 as 24.

4 BY MR. CARROLL:

5 Q Mr. Menaker, could you please provide a
6 brief description of the analysis that you
7 completed with respect to the project and what
8 your conclusions were.

9 A Korve Engineering is a professional
10 engineering firm in the State of California. We
11 were asked to take a look at the impacts from a
12 transportation and traffic point of view of
13 construction of the plant, operation of the plant,
14 and the transmission line. We looked at vehicular
15 traffic, parking, public transportation, safety,
16 air, rail, and water-borne transportation, and
17 bikes and pedestrians.

18 We found in each instance no significant
19 impact would exist, either during construction or
20 after construction, as a result of this proposal.

21 Q Thank you. Does that complete your
22 testimony here today?

23 A Yes.

24 MR. CARROLL: At this time Applicant
25 would move the admission into the record of the

1 following exhibits sponsored by Mr. Menaker under
2 the topic of traffic and transportation: the
3 identified portions of Exhibit One, the identified
4 portions of Exhibit 2A, Five, Six, Seven, Eight,
5 and Nine; the entirety of Exhibit 14, and the
6 entirety of Exhibit 24.

7 HEARING OFFICER VALKOSKY: Is there any
8 objection?

9 MR. WESTERFIELD: Actually, staff I
10 don't believe has had the opportunity to review
11 Exhibit 24, and so if we could we would like to
12 reserve the right to object until we see it.

13 HEARING OFFICER VALKOSKY: Do you have a
14 copy available, Mr. Carroll?

15 MR. CARROLL: I do. It was docketed and
16 served on May 29th, and I do have copies of it.

17 HEARING OFFICER VALKOSKY: Mr. Menaker,
18 as I understand Exhibit 24, it is asking the FAA
19 for an extension of no hazard designation?

20 THE WITNESS: Correct.

21 HEARING OFFICER VALKOSKY: When do you
22 anticipate getting a response?

23 THE WITNESS: Don't know.

24 HEARING OFFICER VALKOSKY: Okay. I
25 mean, are we talking a matter of weeks, months,

1 relative --

2 THE WITNESS: The request is in. I just
3 don't have a time line for a response.

4 PRESIDING COMMISSIONER PERNELL: Have
5 you ever submitted a request similar before to the
6 FAA?

7 THE WITNESS: Yes.

8 PRESIDING COMMISSIONER PERNELL: What
9 was the time limit there?

10 THE WITNESS: A matter of months.

11 PRESIDING COMMISSIONER PERNELL: Okay,
12 thank you.

13 MR. WESTERFIELD: No objections.

14 HEARING OFFICER VALKOSKY: Okay, no
15 objections?

16 The enumerated exhibits are admitted.

17 Cross-examination, Ms. Minor?

18 MS. MINOR: Given the scope of this
19 witness's testimony we are reserving our cross for
20 the hazardous materials topic area.

21 HEARING OFFICER VALKOSKY: Okay.

22 PRESIDING COMMISSIONER PERNELL: Thank
23 you.

24 HEARING OFFICER VALKOSKY: CBE, OCE?

25 MR. ROSTOV: No questions.

1 MS. KEEVER: No questions.

2 HEARING OFFICER VALKOSKY: Staff?

3 MR. WESTERFIELD: No questions.

4 HEARING OFFICER VALKOSKY: Mr. Menaker,
5 are you familiar with City and County of San
6 Francisco's testimony which was designated as
7 Exhibit 16?

8 THE WITNESS: Not their testimony.

9 HEARING OFFICER VALKOSKY: Okay. Are
10 you familiar with their proposed modification to
11 one of the conditions of certification proposed by
12 staff, specifically, trans five?

13 THE WITNESS: I have just looked at it
14 and that's accepted.

15 HEARING OFFICER VALKOSKY: Thank you.

16 Anything else for this witness?

17 Thank you, sir.

18 THE WITNESS: Thank you.

19 PRESIDING COMMISSIONER PERNELL: Thank
20 you.

21 (The witness was excused.)

22 HEARING OFFICER VALKOSKY:

23 Mr. Westerfield?

24 MR. WESTERFIELD: Yes. At this time
25 staff would like to call James Fore to testify.

1 HEARING OFFICER VALKOSKY: Swear in the
2 witness, please.

3 THE REPORTER: Would you raise your
4 right hand.
5 Whereupon,

6 JAMES FORE

7 Was called as a witness herein and, after first
8 being duly sworn, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. WESTERFIELD:

12 Q Mr. Fore, could you please describe your
13 qualifications and areas of expertise.

14 A I've been employed with the Energy
15 Commission for approximately 12 years and been in
16 the siting office for two and a half years where I
17 have been working in the environmental office,
18 doing traffic and transportation and socioeconomic
19 evaluation.

20 While in private industry, I worked for
21 several companies and was responsible for doing
22 environmental impact reviews on various projects
23 and also on selecting site locations for various
24 manufacturing facilities.

25 Q Okay. Approximately how long have you

1 been working on the topic of traffic and
2 transportation?

3 A With the Energy Commission, two and a
4 half years.

5 Q And approximately how many other siting
6 cases or projects have you worked on in this area?

7 A About seven.

8 Q And what's been your role in the Potrero
9 Seven project?

10 A I was responsible for the traffic and
11 transportation evaluation for this project.

12 Q Okay, and did you prepare the traffic
13 and transportation testimony that's a part of the
14 final staff assessment, now made part of Exhibit
15 Three?

16 A Yes, I did.

17 Q Could you briefly summarize that
18 testimony, including, if you would, your
19 conclusions as to whether the project complies
20 with applicable LORS and whether it has any
21 significant adverse environmental impacts.

22 A Yes. We evaluated this project for the
23 Potrero Unit Seven, which will be located at the
24 existing 20-acre Potrero power plant site off of
25 Illinois Street between 22nd and 23rd Street. The

1 construction of this facility is to take
2 approximately 24 months and have a maximum work
3 force of 279 individuals with a maximum truck
4 traffic on a daily basis of 25 truck trips per
5 day.

6 The evaluation of the traffic effect
7 this project would have on the area roadways was
8 based upon the traffic associated with the maximum
9 work force. This traffic would place the greatest
10 stress on the area roadways. The evaluation
11 considered not only the traffic associated with
12 the Potrero power plant Unit Seven, but other
13 developments occurring in the vicinity of the
14 Potrero power plant, which included MUNI's Third
15 Street light rail project, MUNI's Metro East light
16 rail, maintenance and operating facilities, the
17 Mission Bay redevelopment project, and the
18 Illinois Street rail and bridge, truck bridge.

19 The Applicant's application for
20 certification indicated that construction of the
21 plant linears would disrupt existing traffic
22 operations and they proposed mitigation measures
23 to ensure minimum traffic impact. The results of
24 the traffic evaluation done by the staff indicates
25 that the roadways can accommodate the construction

1 of the Potrero power plant Unit Seven without a
2 significant traffic impact.

3 In order for this to occur, it will
4 require the Applicant to work closely with the
5 City and County of San Francisco and the other
6 projects that will be under construction to
7 establish a traffic control plan to be enforced
8 during the construction of the Unit Seven
9 facilities.

10 To accomplish this, we have placed,
11 several conditions of certification have proposed
12 in the final staff assessment. To ensure that all
13 laws, ordinances, regulations, and standards are
14 followed by the Applicant, encroachment permits
15 are obtained for construction activities and
16 roadways, development of traffic control plan in
17 conjunction with the City and County of San
18 Francisco and other construction projects
19 occurring during the construction of Potrero Unit
20 Seven.

21 And repair of all roadway damaged by
22 construction activities and traffic, designation
23 of hazardous material routes and the use of
24 qualified hazardous material haulers, and
25 complying with truck weights and load limits and

1 obtaining the necessary permits for oversized
2 loads.

3 It's felt that if the Applicant will
4 follow these measures and its mitigation measures
5 as proposed in its application that traffic for
6 this project will not have a significant impact on
7 the area.

8 Q Thank you. Based on your evaluation of
9 the project, do you anticipate any significant
10 adverse environmental impacts on traffic during
11 the operational phase of the project as
12 distinguished from the construction phase?

13 A No. The operational phase will have
14 minimum traffic because of the low number of
15 operating employees and will not have a
16 significant number of truck trips on a daily
17 basis.

18 Q And did you conduct a cumulative impact
19 analysis of the impacts of the construction
20 traffic with other projects in the area, such as
21 the Third Street light rail project?

22 A Yes. We looked at the activity of those
23 projects, and the flow in traffic with those
24 projects, some of the traffic for some of the area
25 developments such as Mission Bay which is really

1 north of the Potrero unit, and so it's not a
2 direct impact on the traffic there. Third Street
3 light rail will impact Third Street; there may
4 have to be within the traffic control plan some
5 routes designated in order to avoid the
6 construction areas, but the light rail project
7 does not, is not coming from A to B but it sort of
8 jumps around, so they'll have to work with the
9 MUNI system in order to determine when they can
10 use or perhaps avoid certain areas of the light
11 rail project.

12 Q Okay. And did the CEC take into account
13 the potential for significant impacts from trucks
14 carrying aqueous ammonia to the facility?

15 A Well, during one of the workshops we had
16 input from the residents of the areas that they
17 preferred that the trucks not use the 101 exit
18 because of the sharp turn that it comes off, and
19 the hazardous waste individual and I agreed that
20 we would put a condition in that they would use
21 the exits off of 280 to bring hazardous material,
22 the aqueous ammonia to the plant, unless a safer
23 route was found or was required.

24 Q So was this condition of certification
25 then inserted in response to public comment?

1 A Yes.

2 Q Do you have any additions, deletions, or
3 other amendments you would make to your testimony?

4 A No, I don't.

5 MR. WESTERFIELD: That's all we have on
6 direct.

7 HEARING OFFICER VALKOSKY: Okay. Thank
8 you. I'd like to, a couple of points of
9 clarification for the staff witness.

10 In your testimony you project certain
11 starting dates for these other construction
12 projects. Do you have any knowledge of whether
13 those commencement dates have, in fact, occurred?

14 THE WITNESS: MUNI on Third Street light
15 rail is doing work from basically Fourth down to
16 22nd. They have let the contract on that. From
17 22nd Street on it is my understanding they have
18 yet to have a contract for that work to be done.

19 In talking to them last week they
20 indicated they were in the area of 22nd Street
21 doing pothole filling, and they would then be
22 leaving that area and coming back at a later date
23 for the laying of rails and then leave the area
24 again. So their construction schedule is one
25 that, like I said, doesn't go from Fourth Street

1 down to 22nd but sort of jumps around. But they
2 are under construction at this particular time.

3 I did not get a return call from the
4 maintenance facility, so I'm not real sure exactly
5 where they stand on that, but that's slightly
6 south of the Potrero power plant, and so the
7 traffic there will kind of be going away to the
8 south from the Unit Seven operation.

9 And, of course, the rail bridge is even
10 further south, so I don't see a great impact from
11 that.

12 HEARING OFFICER VALKOSKY: Okay. So,
13 then, is it fair to state that your testimony
14 remains that even with the modifications and/or
15 unknowns in the scheduling of these other projects
16 that there is no potential or significant
17 cumulative impact?

18 THE WITNESS: Yes, I think it still
19 stands. Because most of the traffic is not going
20 north and south, it's going east and west. So
21 some of these projects are kind of parallel to
22 each other rather than overlapping each other in
23 terms of their traffic flow.

24 HEARING OFFICER VALKOSKY: Okay. Are
25 you familiar with City and County of San

1 Francisco's proposed change to your condition
2 trans five?

3 THE WITNESS: Yes, and I have no
4 objection to that, to designating a specific
5 department within their group.

6 HEARING OFFICER VALKOSKY: Okay. A
7 final question regarding your condition trans nine
8 on page 510-32, would you agree that that
9 condition would not be needed for applicant to get
10 a timely extension of its no hazard determination
11 from the FAA?

12 THE WITNESS: Yes. What we really want
13 with this condition is for them to have notified
14 the FAA and got a ruling from them as to whether
15 they need markings and lightings on those towers.
16 And as long as that occurs, well, then we're
17 satisfied.

18 HEARING OFFICER VALKOSKY: Right, and
19 correct me if I'm wrong, but that has occurred
20 once, but that determination is going to expire
21 and at Exhibit 24 Applicant has essentially
22 applied for an extension of that determination.

23 THE WITNESS: Yes, and I have no problem
24 with the extension they've applied for.

25 HEARING OFFICER VALKOSKY: Okay. So my

1 question is do we still need condition trans nine?

2 THE WITNESS: No, we could drop that
3 out.

4 HEARING OFFICER VALKOSKY: Thank you,
5 sir.

6 Okay. Any cross, Mr. Carroll?

7 MR. CARROLL: No.

8 HEARING OFFICER VALKOSKY: Ms. Minor?

9 MS. MINOR: No cross.

10 HEARING OFFICER VALKOSKY: Any of the
11 other parties?

12 MS. KEEVER: No.

13 MR. ROSTOV: I have just one or two
14 questions.

15 CROSS-EXAMINATION

16 BY MR. ROSTOV:

17 Q Did your analysis for construction
18 involve the years -- What years did it involve,
19 the two years from the potential date of
20 certification?

21 A We were basically just looking at the
22 24-month construction period.

23 Q And when did you estimate certification
24 would occur?

25 A Well, we based it on when the Applicant

1 came in, the application came in, and it would
2 take approximately a year to process. And so we
3 were looking for starting sometime next year,
4 actually.

5 Q And now that we've heard testimony
6 earlier today that construction may not even occur
7 a year after certification, so that puts it at
8 least a year -- say two years into the future, at
9 least. Did your traffic and transportation
10 analysis consider a later, that time frame for
11 construction?

12 A Not a formal analysis, but actually in a
13 way it might be better, because some of the
14 construction activity along Third Street and in
15 the area would be perhaps by that area or complete
16 during that time period.

17 Q Do you think the CEC rules would require
18 you to redo the analysis for a more realistic time
19 frame?

20 A Only if there was a known major
21 construction activity that we didn't know about.
22 Because the traffic pattern from the plant itself
23 would be the same.

24 MR. ROSTOV: Okay.

25 PRESIDING COMMISSIONER PERNELL: I have

1 a question. Do you know of any other known
2 construction activity for the future? In other
3 words, construction permits? Have you looked at
4 that?

5 THE WITNESS: The only other activity
6 we're aware of is some areas over around the pier
7 where they're doing some redevelopment. And
8 again, that does not go directly by the Potrero
9 power plant. But other than that, I don't know of
10 any major construction activity that's going to
11 occur.

12 HEARING OFFICER VALKOSKY: Okay. So,
13 then, the final question, in your estimation is
14 your analysis sufficient to include cumulative
15 traffic and transportation impacts in light of a
16 probable delay in the construction of the project
17 from that stated?

18 THE WITNESS: Well, I think it is,
19 because if these projects are complete and another
20 one comes in, the traffic impact would still be
21 very similar because we're just talking about
22 vehicles coming into the area.

23 HEARING OFFICER VALKOSKY: Okay, fine.
24 Thank you.

25 Mr. Westerfield, did you move your

1 exhibits?

2 MR. WESTERFIELD: No, but I'd like to at
3 this time.

4 HEARING OFFICER VALKOSKY: Please do.

5 MR. WESTERFIELD: I would like to move
6 the traffic and transportation chapter of the
7 final staff assessment which is a part of Exhibit
8 Three into the record.

9 HEARING OFFICER VALKOSKY: Any
10 objection?

11 Hearing none, that's admitted.

12 Any other questions for staff's witness?

13 Thank you, sir, you're excused.

14 PRESIDING COMMISSIONER PERNELL: Thank
15 you.

16 (The witness was excused.)

17 HEARING OFFICER VALKOSKY: Ms. Minor?

18 MS. MINOR: Yes. As we discussed off
19 the record, the City's traffic and transportation
20 witness, Ed Smeloff had to leave because of an
21 unexpected emergency. We submitted his written
22 testimony, which is Exhibit 16. I have had a
23 chance to confer with the Applicant, the CEC staff
24 and all the intervenors, and there is no objection
25 to treating his testimony as a declaration and

1 moving by way of stipulation that his testimony be
2 admitted into the record.

3 If I can do some more clarification for
4 purposes of the record, Ed Smeloff is the
5 assistant general manager for Harrer Policy
6 Planning and Resource Development for the San
7 Francisco Public Utilities Commission. He is one
8 of two overall policy witnesses for the City and
9 County of San Francisco, and he will be testifying
10 in numerous other areas, topic areas, during the
11 course of these proceedings.

12 The modification which the City has
13 sought in the condition of certification -- It's
14 transportation five -- would be specifically to
15 list the San Francisco Department of Parking and
16 Traffic as an agency that the Applicant must
17 confer with in preparing the traffic control plan.
18 The Department of Parking and Traffic is a
19 specific department agency in the City and County
20 of San Francisco that is responsible for
21 monitoring traffic and traffic controls,
22 particularly during major construction projects.

23 In view of the fact that there is no
24 objection to this testimony, I'd like to move that
25 this testimony be admitted into the record as

1 Exhibit 16.

2 HEARING OFFICER VALKOSKY: Objection?

3 MR. CARROLL: No objection.

4 HEARING OFFICER VALKOSKY: Any
5 objections from anybody?

6 MR. WESTERFIELD: No objection,
7 particularly in light of the fact that that
8 department is renowned for its great efficiency
9 here in San Francisco.

10 HEARING OFFICER VALKOSKY: Hearing no
11 objection, it's admitted.

12 (Laughter.)

13 HEARING OFFICER VALKOSKY: Is there any
14 public comment on the area of traffic and
15 transportation?

16 PRESIDING COMMISSIONER PERNELL: Well,
17 let me just ask, is there any public comment on
18 any of the areas that we've covered today?

19 Seeing none --

20 HEARING OFFICER VALKOSKY: We'll close
21 the record on traffic and transportation and
22 reconvene at 10:00 o'clock tomorrow to deal with
23 transmission system engineering and the topic of
24 transmission lines safety and nuisance.

25 PRESIDING COMMISSIONER PERNELL: Is

1 there any other business to come before this
2 Committee?

3 Hearing none, seeing none, this
4 Committee is adjourned. Thank you all for coming.

5 (Thereupon, the hearing was adjourned at
6 12:55 p.m. to reconvene tomorrow, Tuesday,
7 June 25th, 2002, at 10:00 a.m.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission evidentiary hearing; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in outcome of
said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 4th day of July, 2002.

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